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VOL. IX

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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted]1921

Term No. [redacted]257

CHARLES D. NEWTON, AS ATTORNEY GENERAL OF THE STATE OF NEW YORK, EDWARD SWANN, AS DISTRICT ATTORNEY OF THE COUNTY OF NEW YORK AND LEWIS NIXON, CONSTITUTING THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK, FIRST DISTRICT, APPELLANTS,

vs.

CONSOLIDATED GAS COMPANY OF NEW YORK, RESPONDENT.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED MARCH 17, 1921

(File No. [redacted])

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CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, Etc., *et al.* 20791

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 24, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 20792
MR. O'BRIEN, of Counsel for defendant Swann.

Mr. O'Brien: Your Honor, I want to read a little statement to you with reference to a statement—

The Master: No, I will not take it now. This is not the time to read any statements.

Mr. O'Brien: This bears on the record of November 20th. 20793

The Master: No, I will not take any statement at this time.

Mr. O'Brien: Later in the afternoon?

The Master: No. When we are through with this, then I will hear any statement pertinent to any matter that is brought up. Let me look at it (taking paper).

Mr. O'Brien: It bears reference to the record of November 20th.

Mr. Ransom: Shall I proceed?

The Master: Yes.

COLIN C. SIMPSON, resumed.

Mr. Ransom (reading):

"CROSS-EXAMINATION BY MR. PAGE:

Q. Are you able to state the book value, the value on the books on which those mains and services are carried by your company?

A. Yes.

Q. What is it?"

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, not being the best evi-
20795 dence; the book value, if it were produced at that time, and if properly proven, not being the best evidence of original cost.

The Master: How can I allow this witness to state what those books show? There is no proof that he was familiar with them.

Mr. Ransom: This was a question put to him upon the former trial. Under the rules applicable to the receipt of the testimony of the witness on a former trial in equity, where the practice in that court is not controlling under the Conformity Act, the rule as I understand it is that it has all to be offered and made available, the direct and
20796 the cross. What I am doing in that respect now is reading the cross-examination by Mr. Page on the former trial.

The Master: Suppose Mr. Simpson was on the stand here now and you asked him that question, would I be obliged to allow it?

Mr. Ransom: I take it that if he were on the stand now and he were asked this question by counsel for the complainant in the former suit, in this suit, that an objection to that question would be sustained.

The Master: Then I will sustain it now.

Mr. Ransom: But this situation is a different situation. Here is a witness who is dead. The questions which were asked him upon direct-examination on the former trial and the questions which were asked him upon cross-examination on the former trial become equally a part of what may be received and should be received in this court.

The Master: I will not receive any answer that would be objectionable if the witness were here. I am not going to penalize the defendants because the man is dead, and let you prove some- 20798
thing that you would not be able to prove before me if he were here.

Mr. Ransom: It is not a question of our being able to prove it in the sense of asking those questions on direct. The predecessor of Mr. Chambers on the former trial asked a certain question.

Mr. O'Brien: Is that what I objected to?

Mr. Ransom: Yes.

The Master: Is this cross-examination?

Mr. Ransom: Yes.

The Master: I thought it was part of your direct.

Mr. Ransom: No. There are cases which go 20799
so far, but I am not sure it is a correct rule and therefore have not injected that question into the case—but there is authority for the proposition that where the testimony on a former trial in a federal equity suit is raised in a subsequent trial involving the same parties and the same subject matter, it may be taken. Those who counsel for the parties in the present suit may not even make objections which their predecessor counsel did not make on the former trial, the theory being, as your Honor can well see, that if the objection

had been made by the predecessors of the present representatives of the defendants, on the former trial, the objection might have been obviated.

I have not desired to inject that controversial issue into this case, because there might be some doubt about it, and I would not desire to have any doubtful question on evidence necessarily injected. But certainly so far as the testimony on the former trial is concerned, whether cross-examination or direct-examination, the rule by which the complainant feels bound, irrespective of what might
20804 be the complainant's own preferences, is that the entire testimony on the former trial is what is received here.

The Master: No, I will not follow any such rule.

Mr. Ransom: You see, this is not a situation like that which your Honor was perhaps thinking of and did think of Friday, where under the Conformity Act the state practice was controlling, and in New York the rule is that where the testimony of the party on a prior trial is received, then under the subsequent provisions of Section 830 of the Code it is treated like a dep-
20805 osition, from which either party may read such portions as they wish. The Federal rule, outside of the provisions of the Conformity Act, clearly calls for all of the testimony and not part of it. So much so that I would hesitate very much here to offer merely a part of the testimony of Mr. Mayer and of the testimony of Mr. Simpson.

Mr. Chambers: May I say just a word?

The Master: I would like to have your views. In other words, to interrupt you, Judge Ransom's position is this: desiring to read some of

Mr. Simpson's testimony he has got to read it all as it stands. What have you to say about that?

Mr. Chambers: There is not anything in that at all. Because it was cross-examination upon another trial in another action between different parties is not any reason why he can read it now, but I think we have made it clear that we object to the reading of this testimony because this is not a new trial of the former trial, it is not the same subject matter as before, and it is not between the same parties. 20804

As I understand the rule in the Federal Courts it is that you may read the testimony of a witness deceased, where he testified upon a former trial of the same action. I think we are all agreed that this is not a new trial of the original action but is a new action between different parties; and that being so, it seems to me the fundamental error that has crept in is just that, that it is not between the same parties, that it is not a new trial of an action that has heretofore been tried, and that the subject matter is not the same because we are now dealing with entirely different properties of the Consolidated 20805 Gas Company than they had in 1905, when that trial took place.

Mr. O'Brien: Your Honor, not only that, but the premises Mr. Chambers referred to are borne out in the decision of this Court that the city could not intervene. It was on that theory that Judge Mayer's decision was found that this was not a continuation of the old trial, that this was a new action, and the city was not a necessary or a proper party. That is one of the vital things that I want to call your attention to when

you come to consider the admissibility of any of this testimony.

My idea is that it is expert testimony, a good part of it; another point is that the books and records on which he predicated his testimony, from which he refreshed his memory, are still living. Another point is that Mr. Carter, on whom he leaned in his testimony in that case, is under dispensation of Divine Providence still with us, and Mr. Carter could be called to prove the very things I presume Mr. Colin C. Simp-
20807 son has been called to prove. Not that Mr. Carter, so far as we know, has been over all the streets of the city, but there has been no identification of the mains in any particular street; the witness is bolstering up his memory, refreshed from the records in the office of the company, by what he says was his knowledge of the city—up and down, through the avenues and streets.

Those are some of the distinguishing features that take this case out of the application of decisions rendered in cases where testimony of deceased witnesses has been offered. There is not a thing, your Honor, that cannot be covered by
20808 existing witnesses.

Mr. Ransom: There has never been a human being who knew so much about the mains of this company as the witness in question.

The Master: I am perfectly clear in my mind that this action is an action between the same parties, affecting the same subject matter, and that Mr. Ransom is entitled to read into the record the testimony of Mr. Simpson to the same extent that he could ask Mr. Simpson questions here. And I am perfectly clear that he can ask those questions and read it from this deposition,

20809

whether they were asked upon direct or cross; but I do not think that I have a right to permit any question that is objectionable, and which would be if the witness were here, just because it was brought out on cross-examination on the former trial.

Mr. O'Brien: May I interject right here? Is it not to be expected, as one of the conditions precedent to introducing this testimony, that they prove they have not got witnesses living, men connected with the company, who are able to testify to the same thing as Mr. Simpson?

20810

Mr. Ransom: That is not true.

The Master: I do not think there is any such rule. No, I am not going to sustain the objection on the ground that my theory of the law is that Mr. Ransom can read any question in this record, whether on direct or cross, which would be unobjectionable if the witness himself were here. I think this question asked the witness here on direct—and I think Judge Ransom conceded it—would be objectionable.

Mr. Ransom: I would so concede.

The Master: I will sustain the objection.

Mr. Ransom: Exception.

20811

Mr. Chambers: In ejectment proceedings I know this to be the rule: In an ejectment action between the same parties in the state courts and ejectment actions between the same parties with the same subject matter in the United States Courts, the courts have held that you may not read the testimony of a dead witness taken in either the state or Federal Court in the other action. They hold that the rule was not as broad as that; they held it must be a new trial of the same action.

Mr. O'Brien: I have not attempted to review the legal situation. I will before the subject is much older ask a few minutes to argue it.

The Master: I will entertain a motion at the close of the case to strike out any or all testimony upon the ground that it was improperly received, and if I reach the conclusion that I have erred in receiving any testimony I will strike it out—which means nothing to me except that I will disregard it in reaching a conclusion. But I am perfectly clear that so long as these ques-
20813 tions might be asked of the witness if he were living and on the stand, as part of the direct case, I can allow them now, and I will do that.

Mr. Ransom: I want it to be perfectly clear on the record that the entire testimony of Mr. Simpson on the prior trial, and of Mr. Mayer on the prior trial is available, and that I am offering and endeavoring to read it all. If your Honor under this rule of law, with which complainant does not agree, will not allow all of it on defendants' specific objection the responsibility for the exclusion rests upon those who object, and upon your Honor who sustains the ob-
20814 jection, and not upon the complainant.

The Master: The responsibility never worries me. Proceed.

Mr. Ransom: I only want to make my record, as Mr. O'Brien so often says. Would your Honor consider the practice on those controversial questions of taking the answer and striking it out so the record will be complete?

The Master: No, I am not going to lumber up the record. I just looked at that cross there, and I do not believe there are any of those questions you are entitled to ask.

"Q. In 1902 it became necessary for the first time to make a report to the State Tax Commission, did it not?

A. I believe so.

Q. Were you requested at that time to get up a statement of the mains and services of the company and their valuation, for the purpose of making that return?

A. I was requested to give values of each size main per foot.

Q. Was the purpose for which you were to give those values disclosed to you? 20716

A. It was.

Mr. Ransom: I hear no objection to any of these questions, so—

The Master: I do not either.

Q. Were the blanks that were to be filled out and the questions that were to be answered exhibited to you at that time?

A. No, sir."

Mr. O'Brien: Just to make it interesting we will let our voices rise at this time.

The Master: Do you object?

Mr. O'Brien: Yes, sir.

The Master: Objection sustained. 20817

Mr. Ransom: Exception.

Q. Or read to you?

Mr. O'Brien: I object as incompetent, irrelevant and immaterial.

The Master: Let us hear an objection to the last question.

Mr. O'Brien: I objected.

The Master: Sustained.

Mr. Ransom: Exception. I have an exception to any of these questions.

Mr. O'Brien: Judge Ransom, you are reading now from the cross-examination?

Mr. Ransom: I am.

Mr. O'Brien: By Mr. Page?

Mr. Ransom: By Mr. Page.

"Q. Or read to you?

A. No, sir.

Q. If Mr. Carter has so testified on any occasion, he was in error?

A. Yes.

Q. From whom did you receive instructions to
20819 prepare this list?

A. A request from Mr. Carter. Mr. Carter came to my office and told me that he had to report to the Tax Commission the value of our mains and services, and asked me to give him some figures as to the value. I gave him the figures, from which he computed his total.

Q. He asked you to give him figures as to the value of those mains and services?

A. Yes.

Q. In order that he might make a return to the State Tax Commission, is that right?

A. Yes, sir.

20820 Q. And you prepared such value, did you?

A. Yes, sir.

Q. Did you prepare just one statement of valuation, or did you prepare two?

A. I prepared one; I gave him one set of figures.

Q. The reports contained two valuations, did they not, one of the value of reproduction new, and one the value with depreciation?

A. I really do not know, sir.

Q. You have never seen them?

A. No, sir.

Q. And if it contained a valuation of the depreciation, that was not prepared by you?

A. No, sir.

Q. Is that right?

A. Yes, sir.

Q. Have you the figures that you gave at that time?

A. I think I have; not the total, I do not think I have. I have the figures. The total was made up for me, I think.

Q. Well, was it $4,829,925.82?

A. I am not familiar with the total, because, as I say, I did not give him any statement of values on 20822
which to base his calculations. I gave him a price per foot for each size of main, and he from his own books took the mileage of mains and multiplied the number of feet by the price per foot, and made his calculations from that.

By Mr. Mathewson:

Q. You suppose that is what he did?

A. I suppose so, yes; all I gave him was a price per foot.

By Mr. Page:

Q. You did not make the final computation at all?

A. No, sir.

Q. Have you the figures that you gave him as to 20823
the miles of mains or the number of feet of each particular main, with you now?

A. No, sir, I did not give him any figures. As I stated, all I gave him was the price per foot, and he made his computation on that price per foot, from his own figures, I suppose. Of course he had charge of the books of the company and he had the number of feet in his possession.

Q. Did he ask you merely for the price at which you could buy pipe, or did he ask you for the value of the mains?

A. The value of the mains.

Q. And services?

A. Yes.

Q. And in response to that request you gave him certain information as to value, didn't you?

A. I do not think I gave him any value as to services; mains only.

Q. Now, you may state what you gave him at that time as to the value of each class of mains?

A. Each size?

Q. Yes, each size.

A. 1 1 2 inch 20 cents a foot

20825

2	"	23 "	"
3	"	30 "	"
4	"	48 "	"
5	"	60 "	"
6	"	64 "	"
8	"	92 "	"
10	"	$1.10 "	"
12	"	$1.35	"
16	"	$1.95	"
18	"	$2.30	"
20	"	$2.78	"
24	"	$3.70	"
30	"	$5.65	"

20826 Those are all per foot.

Q. You have given here this morning the number of feet of mains of each of those descriptions that are now in use by the company?

A. Yes.

Q. Where did you get that information?

A. Where did I get that information as to the number of feet?

Q. Yes.

A. From my books.

Q. Does your books correspond with the books from which Mr. Carter would have gotten his information?"

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial.

The Master: Objection sustained.

"Q. Now, we will take the two-inch mains; what did you state them to be; what number of feet?

A. How many feet?

Q. Yes.

A. 4,365.

Q. That was as of date October 31, 1905?

A. Yes.

Q. I show you a report of your company to the State Board of Tax Commissioners for 1905, the year 20828
ending June 30, 1905, with a statement of the mains and services of the company brought down to November 1, 1905, and I ask you if you will read from that the number of feet of two-inch mains that were in the possession of your company?

A. 22,826.

Q. Now we will take up the three-inch mains; what did you state that to be?

A. 222,741 feet.

Q. Now, will you read from the returns to the State Tax Commissioners the amount of these mains?

A. 374,336.

Q. And to bring it down to November 1st, will 20829
you make the additions that is indicated below, for three-inch mains?

A. The total mains?

Q. No; are there not some more added between June 30th and November 1st?

A. 899 feet.

Q. And that 899 feet would have to be added?

A. Yes, 394,336 feet.

Q. Now, we will take the four-inch mains; you stated them to be how much?

A. 557,469.

20830 Colin C. Simpson, Cross.

Q. And on the tax returns, how much?

A. 695,632.

Q. And added?

A. 7,767 feet.

By Mr. Mathewson:

Q. What is the total"—

Mr. Neumann: If your Honor please, I thought it was understood that the names of counsel who asked the questions on the former trial were to be omitted, and that these questions were to be asked by Judge Ransom.

20831 Mr. Ransom: Under the authorities we are clearly entitled to have appear on the record that the predecessor counsel representing these defendant public authorities were present during the examination and cross-examination of this witness on the prior trial, and that they participated in his examination or had an opportunity for cross-examination.

The Master: I will not grant the motion for this reason: it may be advisable to refer to the fact that although Mr. Ransom in reading these questions now is bound by these answers, they were questions that originally had been asked

20832 by counsel for the state in another trial.

"Q. What is the total now of 4-inch mains on the Tax Report?

A. 695,622.

By Mr. Page:

Q. Then add 7,767 to that?

A. 703,289, 4-inch total.

Q. Your 5-inch mains are stated by you to be how many?

A. 1,799 feet.

Q. And on the Tax Report?

A. 5,902 feet.

Q. Now, we will take the 6-inch mains.

A. I have 2,129,088 feet. The Tax Report, 2,113,874, and 15,214, making a total of 2,129,088.

Q. Was not that 15,214 not laid but taken up in that period?

A. No sir, laid, according to this (referring to Tax Report).

Q. I know what it is according to that, but you will observe that the difference between the amount stated in the Tax Report and the amount stated by you is exactly 15,214; if you will eliminate that 15,214 they will agree. 20134

A. No, the amount in the Tax Report and the amount on my sheet tally exactly.

Q. It tallies if you do that?

A. Yes.

Q. And the 8-inch mains are the same, and that tallies exactly?

A. Yes, I think you will find that the rest all tally. Shall I call off the rest?

Mr. Mathewson: Yes.

A. 8 inches, my list—

Mr. Mathewson: No, just see if they tally, unless the Senator wants you to give the figures. 20135

A. 8 inches the same. 10 inches, I have 71,386.

Mr. Page: Your affidavit states it to be 71,286.

Mr. Mathewson: That is a clerical error, I think.

Mr. Page: If it is, your total is wrong.

The Witness: 71,386 it looks like. I will look it up in my original record.

Q. The next, according to my figures, where there is a variation, is in the 20-inch.

A. I have 178,803.

Q. In the Tax Report the figure is what?

A. 178,933.

Q. If you deduct the 130 instead of adding it to the 178,933, you will get the result that you have, won't you, 178,803?

A. Yes, sir.

Q. Did you take up 130 feet of 30-inch mains?

A. I could not say.

Q. Now, take the 24-inch mains.

A. 24 inches, I have 45,956. On the Tax Report, 39,622, and laid, 5,628; 45,241, against 45,956.

20837 Q. Now, your 30-inch mains?

A. My list calls for 131,583. The Tax Report calls for 131,843.

Q. But if you deduct that 130 instead of adding it to the 131,713, you have the same result as you have in yours, haven't you?

A. Yes.

Q. Did you take up 131 feet instead of laying it in that period?

A. I could not say, sir, and I did not make up these figures in the Tax Report at all; I had nothing to do with them.

Q. Now, you have given the total number of feet

20838 of mains as 4,344,849.

A. Yes.

Q. And the Tax Report gives a total of 4,641,666 as of June 30th, with additions, 43,998 feet?

A. Yes."

Mr. Chambers: To that we make an objection.

Mr. Ransom: All these prior matters to which no objection has been made led up to that point.

Mr. Chambers: The Tax Report is the best evidence, and it is incompetent, irrelevant and immaterial.

Mr. O'Brien: The other matters that have been covered by the questions and answers relate to cost, not values. He used the word "Values," but he meant "Cost." Now we are getting into the domain of expert testimony without a label. We don't know whether it is Mr. Carter's idea of reproduction cost, or what it is.

Mr. Chambers: He asked him to read it out of the Tax Report, and he didn't know anything about it, and he didn't make up the figures.

Mr. O'Brien: Heretofore the witness was 20840
telling about things of which he pretended to have some knowledge. Now we are getting into a set of figures made in a return to the Tax Department by somebody representing this company that we know not of. That would be objectionable if we had the man here in the flesh, the breathing witness on the witness stand.

Mr. Chambers: He is asked to read it from a tax report.

The Master: Objection sustained.

Mr. Ransom: Exception.

"By Mr. Mathewson:

Q. That is the tax report of what date? 20841

A. June 30th, 1905.

By Mr. Page:

Q. You say that you took your figure of the length of mains in feet from the books of the company?

A. Yes.

Q. Did you see any such figures on the books of the company as have been read off this morning from the tax report, as to the number of feet of mains?

A. I could not say.

Q. Is that right, Mr. Simpson?

A. Yes.

20842 Colin C. Simpson, Cross.

Q. Then you have a set of figures as to the number of feet of mains that are in use, and the company or the general bookkeeper of the company has a set of figures?

A. Yes, sir.

Q. And whether they correspond within 200,000 or 300,000 feet, you do not know?

A. I do not know.

Q. Well, do they?

A. Yes; they are compared every month.

Q. Now, in arriving at the value you have given
20843 this morning of the mains of the company you will state in the same manner that you did as to the value that you gave Mr. Carter, the value of each size of pipe?

Mr. Chambers: I object to that as incompetent.

The Master: Objection sustained.

Mr. Ransom: He has been permitted to give a value. Now he is asked in arriving at his value to state in the same manner the value of each size of pipe. This is simply an itemization of the larger figure that has been received.

The Master: Yes, I will take it. You had no
20844 objection to the total figure, now I will take the items.

Mr. Chambers: Exception.

A. I will have to give two values, sir, because I have made my calculations on the basis of 90 per cent new pavement and 10 per cent old pavement. Of course the pipe under new pavement is a good deal more expensive.

Q. I think it would be very interesting if you could get one or two more values of these things, so you may give it?

A. 1 1/2—the larger figure is for pipe laid in new

pavement and the small one for pipe laid in old pavement.

1 1/2	inches	$1.14	and $	.29
2	"	1.19	"	.34
3	"	1.42	"	.42
4	"	1.53	"	.53
5	"	1.64	"	.64
6	"	1.74	"	.74
8	"	2.18	"	1.02
10	"	2.45	"	1.29
12	"	2.78	"	1.62
16	"	3.63	"	2.31
18	"	4.09	"	2.77
20	"	4.93	"	3.46
24	"	6.45	"	4.65
30	"	9.55	"	7.58"

20846

Mr. O'Brien: Our objection goes to all this.

"Q. Now, as I understand the first figure given by you, or the first column of figures is an estimated value based upon the supposition that 90 per cent of the streets of New York have been laid with asphalt, Belgian block on concrete, Belgian block on sand, asphalt block or wooden block pavement?

A. Yes, sir.

Q. Is there any difference between the cost of laying a main in a street that has an asphalt pavement and a street that has Belgian block on sand?" 20847

Mr. Chambers: I object to these questions on the ground that there is no evidence whatever as to how the street pavements were laid.

The Master: The same witness said that that was the fact. I will allow it.

Mr. Chambers: Exception.

Mr. O'Brien: I object to it, this being merely a speculation on the part of the witness; secondly, on the ground that he has not qualified himself as an expert.

The Master: The answer is allowed.

Mr. O'Brien: Exception.

"A. Is there any difference in cost?

Q. Yes.

A. No, it would be about the same, that is, in these pavements relaid by the city, the cost of paving would be about the same. The city charges $3 a yard for Belgian block on sand. There is only one street in New York where they have it.

Q. What street is that?

A. Part of Ninth Avenue, from 59th Street north,
20849 Columbus Avenue. We pay there $3 a yard. That is for granite block on sand, not Belgian block.

Q. Can you state the number of each kind of mains that are now in existence that were taken over by the Consolidated Gas Company from the constituent companies in 1884?

A. I cannot state offhand. I can get it from my notes, I suppose.

Q. You testified that more than half of the present mileage was new?

A. Yes, sir.

Q. That would refer to the additional construction which you have made, which would be 212 miles,
20850 and the two, three and four inch mains that you have taken up, which you state to be 222 miles?

A. Yes.

Q. The large pipes that are now in use were largely laid, were they not, before the Consolidated?

A. No, sir.

Q. How many pipes have you on Third Avenue?

A. Consolidated?

Q. Yes.

A. On what part of Third Avenue?

Q. From Grand Street to 129th Street?

A. I will have to take it in sections, because it is in different districts.

Q. Give the number of pipes and the size of each pipe. Have you a map of your distributing system showing the number and size of the mains on each street?

A. Yes, sir.

Mr. Page: Why cannot we have that produced?

Mr. Mathewson: Perhaps you can. I do not see that it will do you any good, Senator, would it?

Mr. Gans: It might not do us any harm; we might try it. 20852

Mr. Mathewson: We have testified already that we have pipes in every open street in New York City, but the mileage of pipes would not appear from that. You would merely see a picture. I do not know how bulky a thing it is.

The Witness: It would weigh about a quarter of a ton.

Mr. Mathewson: Mr. Simpson says it would weigh about a quarter of a ton.

The Witness: You know the insurance volumes? They are enormous volumes. There are twenty-two volumes and they are about that big square. They have to be on a large scale. 20853 Are you ready for my answer?"

Mr. O'Brien: If your Honor please, here is proof of what I said a minute ago, that they have to that extent a record of pipes or mains. This matter could be testified to by many people, presumably, connected with the company at the present time.

The Master: Well, we will see.

"Q. Yes.

A. These are Consolidated Gas Company's mains only?

Q. Yes.

A. Between Grand and 34th Street one 20 inch, one 16 inch and two 6 inch mains; 34th Street to 79th Street, two 16 inch, a 6 inch and an 8 inch; 79th Street to 120th Street, 16 inch part of the way and 12 inch part of the way, and an 8 inch and two 6 inch mains.

Q. On this same avenue are there mains of other companies controlled by your company?

A. Yes, sir—oh, I don't know about control by our company. They are mains of other companies.

20855 Q. Well, we will state, then, are there mains of the Standard?

A. There are on part of the avenue?

Q. And mains of the New Amsterdam?

A. There are; yes, sir.

Q. Any mains of the Mutual over there?

A. Yes, sir.

Q. Are you sufficiently familiar with that condition to state the number and size of the mains of these other companies that I have named on that street?

A. I can come very near it.

Q. Well, proceed?

A. I may not give you the exact sizes, but will come

20856 as near as I can to it.

Q. Well, you got it down to four inches on your direct-examination?

A. The Consolidated. I can give the number of mains, but whether I can give the exact size offhand or not, I don't know. The Standard have on each side one 10 inch and one 8 inch, from 30th Street to 129th Street. The Mutual has a main on each side the entire length up to 60th Street; nothing north of 60th Street.

Q. From Grand Street to 60th Street?

A. Yes, sir. The New Amsterdam has three mains all the way from Broome Street to 125th Street.

Q. How wide is Third Avenue?

A. Third Avenue is 60 feet from curb line to curb line.

Q. Are those mains of yours laid parallel to each other?

A. Yes, sir.

Q. Or are some above the others?

A. Some overlap.

Q. And do you say it would be impossible by any system of readjustment of those mains to lay a trunk main that would carry a quantity of that gas that is already carried in these small pipes? 20858

A. No, I say it would be impossible without readjustment of pretty nearly everything down there, not only the gas mains, but the water mains and subways and elevated railroad columns that take up a good deal of the street, and the sewers and underground trolley tracks taking up a great part of the street and the subway ducts for the underground trolleys, besides the telephone and the electric light subways.

Q. What depth do you lay your gas pipes?

A. We try to lay at a depth between 3-feet 6-inches and 4-feet, and the pipes average 2-feet and 4-feet. Very often we cannot get down as low as we want 20859 to.

Q. Do you know at what depth they lay the water mains?

A. They try to maintain a depth of 6 feet, but generally run them about 5 feet.

By Mr. Mathewson:

Q. Is there any municipal regulation as to the depth to which you must lay your pipes underground?

A. Only that they shall be laid at least 18 inches below the surface.

Q. How deep do you have to lay them to escape frost?

A. I say that we try to lay them from 3 feet 6 to 4 feet but we cannot do it except in very few cases in Manhattan.

By Mr. Page:

Q. Now, as I understand you, you testify that First, Second, Sixth, Seventh, Eighth, Ninth and Lexington Avenues are in worse condition than Third Avenue?

A. Yes, sir—no, I did not say worse condition than
20861 Third Avenue. That is a mistake on your part.

Q. Well, you said on Third Avenue there would not be room for a 4-inch pipe and on Eighth Avenue and the rest you said there would not be room for any?

A. I said even for a 4-inch main. I meant to express the idea there would not be room even for the smallest sized pipe.

Q. And as a matter of fact Third Avenue is one of the most congested avenues so far as pipes are concerned outside of Broadway?

A. Not a bit more than Second Avenue or at the present time First Avenue or Broadway or Eighth
20862 Avenue or Ninth Avenue; in fact any avenue running north and south in the city today is entirely filled up with pipes, with the possible exception of parts of Eleventh Avenue and Tenth Avenue, and those avenues are broken up by the New York Central Railroad at Thirty-second Street; Eleventh Avenue is entirely cut off there at Thirty-second Street by the yards.

Q. Now, all of these mains that you have stated running from Grand to 129th Streets, are they continuous mains?

A. Practically continuous.

Q. Do you draw for the services in each district from each of the mains?

A. Yes, sir.

Q. So that from Grand Street to 129th Street, on each block, there is drawn from each of these mains that you have specified to supply consumers on that block?

A. Yes, sir.

By Mr. Mathewson:

Q. Are all the mains all on one side of the street or on opposite sides?

A. On opposite sides. There are two mains of 20864
each system, one main of each system on each side of the street.

By Mr. Page:

Q. When did you make this observation at the Brooklyn Bridge where you said that you observed some effect from electrolysis?

A. About a year and two months ago.

Q. When was your last observation made of those pipes prior to that time?

A. At that particular place I could not really say.

Q. Just where was that?

A. It was right under the Bridge, on, I think it is South William Street, that goes through right un- 20865
der the Bridge under that arch. It was before the entrance of that wine store, in front of the doorway of that.

Mr. Burr: That is almost at Gold Street, is it not?

The Witness: Yes, sir. That is one case, and another case two years ago right in front of the Brooklyn Bridge, right in front of the Park Row entrance.

Q. And what was your idea as to where the electric current came from that caused that pitting of the pipes at that place, I suppose it was?

A. Yes, sir, I presume from the Brooklyn Bridge.

Q. Why do you presume it came from the Brooklyn Bridge?

A. Well, on account of the locality of the pipes to the bridge, in connecting with the bridge practically.

Q. And your idea is then that the electric current entering the pipes at that point caused the pitting, is that it?

A. No, the current leaving the pipe at that point caused the pitting.

20867 Q. Well, you do not supply electric current to the Bridge from your gas pipes, do you?

A. No, but electrolysis is not caused by the current going into the pipe, but is caused by the current leaving the pipe.

Q. That is the pitting is caused by the current leaving the pipe?

A. Yes, leaving the pipe.

Q. Where are the power houses that run the Brooklyn Bridge cars?

A. I don't know, I have no idea.

Q. They are in Brooklyn, are they not, generally?

A. I think so.

20868 Q. And don't you know that the electrolytic condition is caused by the current seeking to get back to the power house or to its source?

A. That is exactly what I said. It is the current leaving the pipe, going back to where it came from, that caused the pitting. The current was caught up by our pipe and went back to where it came from and jumped from our pipe to the structure.

Q. Is it your idea that the electric current then would leave the structure of the Brooklyn Bridge, jump down into your pipe and jump up into the bridge again immediately?

A. No, sir; but the electric current can come across the river or from the bridge or some other place and follow along the ground and follow our pipe and then take the best place to go back.

Q. Do you know from observation as to the electric currents, the stray currents that come from the bridge, as to how they do travel? Have you made any study of that?

A. No, I have not, no particular study.

Q. Then the only other observation you have made is at Church Street, Church and where?

A. Church and Spring. In that case I was called 20870
to look at this place and told that our main here was being damaged by electrolysis, and I notified Mr. Maxwell, an electrical expert, who made a test there and found a current of over three volts leaving our—

Q. I think we will let Mr. Maxwell testify, if they will produce him.

Mr. Ganz: I move to strike out what Mr. Maxwell found.

The Witness: Well, I found the pipe pitted.

Q. How thick are these pipes of yours?

A. It depends on the size entirely. They are in thickness all the way from three-eighths of an inch to an inch and a quarter and an inch and an eighth. 20871

Q. Three-eighths of an inch would be the thickness of the inch and a half pipe, would it?

A. No, that is wrought iron.

Q. What?

A. The inch and a half.

Q. The inch and a half pipe are they wrought iron?

A. Some are wrought iron and some are cast iron. The three-inch pipe and four-inch pipe would probably be about three-eighths of an inch in thickness; the six and eight-inch would range about half an inch; the larger sizes up to 36 inches would range from one

inch to an inch and a quarter and an inch and an eighth.

Q. Do you know whether there is any difference in the attraction for electricity in cast iron pipe or wrought iron pipe?

A. Do I know what?

Q. Whether there is any difference in the attraction for electricity in a cast iron pipe or wrought iron pipe?

A. No difference in the attraction, no, sir.

Q. That is, the electric current would seize on a
20873 cast iron pipe as quick as it will on a wrought iron pipe?

A. A wrought iron and cast iron, one is as good a conductor as the other, I think; there might be a slight difference in favor of the wrought iron being a better conductor.

Q. Mr. Simpson, do you remember testifying before the State Commission of Gas and Electricity?

Q. And do you remember that this question was asked you by Mr. Mathewson: "Will you look at Exhibit 165, at the bottom of which appears, 'For mains, $4,829,925.82'"? And Exhibit 165 is shown you (handing book). Then this further question was
20874 asked: "Do you know whether you made up those figures or figures in the preceding report corresponding?" And did you answer, "I did"?

A. I don't remember. May I see the book.

Q. Certainly.

Mr. Mathewson: What page?

Mr. Page: 1554.

The Witness: You will find in another part of the testimony, Senator, the very question that was brought up this morning where Commissioner Shedden asked me that very thing, whether I made up the figures, and I told him I did not. I gave the computation to Mr. Carter.

Q. I am calling your attention to this particular time. Do you remember so testifying on direct-examination in response to Mr. Mathewson?

A. Was it the commencement of my examination?

Q. Yes, it starts there: "Colin C. Simpson, being duly sworn, testified as follows, direct-examination by Mr. Mathewson."

A. All I can say is that that statement—I meant there that I gave the figures from which Mr. Carter's total was computed, that is what I thought.

Q. Well, you so testified at that time, didn't you?

A. Before the Commission I testified that I gave 20876
Mr. Carter—

Q. Did you answer the question that I have read to you from the record in the manner you are set down in the record as having answered it by stating, "I did"?

A. I suppose I did if it is in the record.

Q. And as to the next question, "Will you state what your method, or upon what basis those figures were produced?

A. I took the mileage of the various sizes of mains we had at that time and computed the total amount, taking the cost of laying each size of pipe under the most favorable conditions. I did it for taxation pur- 20877
poses' "—

Mr. Chambers: I move to strike out, "I did it for taxation purposes," and what follows there.

The Master: I will let it stand.

Mr. Chambers: Exception.

Mr. Ransom (reading): "And I thought those were the right kind of conditions to take."

Mr. Chambers: That is the sentence I asked to have stricken out.

The Master: Yes.

Mr. Ransom (continuing reading): "'I did not

figure any rock, city inspection, engineering expenses, clerk expenses, wear and tear of tools and plant, superintendence or any matters of that kind.' Did you so answer?

A. I must have so answered, I guess.

Q. In the tax report the number of services are placed at 86,902, and then there is a decrease from June 30th, 1905, to November 1, 1905, of 564; have the number of services decreased?

A. Yes, sir, they might have, I wouldn't say until I look in my statement here. We had on October
20879 31st 86,338.

Q. Well, that would be just the number, if you deduct 564 from 86,902?

A. Yes, sir.

Q. So there was a decrease in the services from June 30, 1905, to November 1, 1905?

A. Yes, sir; in our overhauling, you know, we cut off all unnecessary services.

Q. Are the services included in the valuation given of $5,801,466.10 in this tax report?

A. I really couldn't say, I don't know anything about that tax report or how it was made up.

Q. You will notice that Schedule K of the tax re-
20880 port has the same figures, $5,901,466.10 in the column headed, "Present value of property in streets, highways and public places, on the basis of cost of reproduction, new"?

A. Yes, sir.

Q. And there is no separate statement of the value of services?

A. No, sir.

Q. And that also under the heading of "present value of property in streets, highways and public places, allowing depreciation," is the $4,389,160.82

that was contained on the last page of the tax report to which your attention had been heretofore directed?

A. Yes, sir.

Q. Now, are you able to state whether the price of mains has decreased since 1884?"

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial.

The Master: I will allow it.

Mr. Chambers: Exception.

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception. 20882

Mr. Ransom (continuing reading):

"A. No, sir, it has increased. You mean the price of labor and material?

Q. No, I said the price of mains; I am not asking now for the value of mains in the ground but the price of mains, if you go to purchase them?

Mr. Mathewson: Pipes.

Q. Pipes, cast iron pipes of the size of these mains?

A. Do you mean the cost of purchasing them has increased, or laying them?

Q. If you had to buy a main today, could you get it cheaper in the market than you could in 1884—the same main? 20883

A. No, sir, we would have to pay more for it.

Q. Do you mean to say that a cast iron main costs more today than it did in 1884?

A. Yes, sir.

Q. How much?

A. The price of pipe in 1884 was twenty-five dollars and something a ton—I will give you the right figures. In 1885, as near as I can get to it, the price of pipe was $25.50, and in December, 1905, it was $28.90, a difference of $3.40 per ton of pipe. Labor has increased now close to twenty per cent, you might

say twenty per cent, in some cases twenty-five per cent; twenty per cent would be a fair round figure of the additional cost of labor.

Q. And in estimating the value of these pipes—you took the price of today?"

Mr. Chambers: To that I object as incompetent, irrelevant and immaterial.

The Master: I will allow it.

Mr. Chambers: Exception.

Mr. Ransom (continuing):

"A. In estimating the value I gave to you before?

20885 Q. Yes.

A. Yes, sir.

By Mr. Mathewson:

Q. That is, you mean the $12,600,000 and over?

A. Yes, sir. Those prices I gave of pipe I would say are not the prices of the pipe delivered on docks, not the purchasing price of the pipe, but the cost of the pipe stacked in our yard. Of course, it is delivered on the docks and carted to the yard and then stacked up. Those prices are the prices stacked in the yard.

By Mr. Page:

Q. Do you have in your department a book or books

20886 that would show the mileage of mains when laid and the cost of laying?

A. No, sir, I have not.

Q. What have you got?

A. We have got books of record of all the mains that we have, but a great many of the mains were laid prior to consolidation, and the different books were turned in to me and the new records made from these old books and of course there was no cost at all in them.

Q. You do not keep any books then that show the cost of the production?

A. I keep my own books which show the cost of the mains, as far as my department is concerned; that is the actual labor and material expended by my department.

Q. Where would you have to go to get the remaining portion of the cost of laying a main?

A. I don't believe there are any books at all which show the cost of the mains which were laid prior to consolidation.

Q. No, but I am talking about those you have laid since consolidation.

A. In the accounting department they have the cost 20888
of those, the total cost.

Q. But from the books you have you could tell how much of each sized pipe was laid, the time when it was laid, and the amount expended by the company in labor and material other than for the pipe itself?

A. I don't think I could, sir. I could give you the mains we laid since consolidation and the cost for the last few years, of those mains, but up to a few years ago I kept no cost record at all in my department, and keep it now only for my own knowledge; it is supposed to be kept in the accounting department.

Q. For how many years would such a record in 20889
your department cover?

A. I should think probably seven or eight years.

Q. Well, for the period then for the last seven or eight years it would show us the cost of the main in the ground, wouldn't it?

A. It would not; it would show the cost of the labor and material, and the cost of rock; outside of that it would not show the cost. The engineering expenses, supervision, clerical expense, the cost of wear and tear on tools and plant are not included.

By Mr. Mathewson:

Q. How about inspecting?

A. That is not in there. The suits for damages, which are very frequently, you know, and all such things as that are not in there at all; I keep it for my own guidance, to see what my part of it is costing.

By Mr. Page:

Q. Well, you could produce such book or books as you have, showing whatever they do that you have in your department, could you?

A. I could.

20891 Q. Well, will you do so?

A. I will, sir, if counsel says so.

Mr. Page: He says he will if counsel says so.

The Witness: That is, I have those figures in that book, the figures all made up until December 31, 1904; the figures for 1905, the data has not been entered, but the mains are all entered up, and we concluded it be better in the accounting department for my figures to be the same as the accounting department figures; that is, the cost should tally with theirs, my cost and their hypen should be the same. I want to have all the information as to what the total cost was,

20892 and I can take their cost and add my cost to it, and therefore the year 1905 I do not think is all figured up yet.

By Mr. Gans:

Q. But you have the original entries in your department?

A. Yes, the original books are there, when the mains were laid and where, and so on.

Q. And such items as you were accustomed to keep as to the cost of laying them?

A. Yes.

Q. And those can be produced from your department if counsel so advises?

A. Yes, sir.

By Mr. Page:

Q. Now, as to mains that were laid prior to consolidation, have you a record now in your possession which shows which of the mains in use were the property of each of the constituent companies?

A. Yes, sir, I think we have.

Q. Is that in your possession?

A. Yes, sir.

The Witness: It is not totalized at all, you know. We have a book of the mains, a record of the mains by streets. Now, for instance take Twenty-third Street, we keep a list of all the mains on East and West Twenty-third Street, and it would go according to the sides of the street, first the north side and then the south side of the street, and there would be a memorandum afterwards as to which company it belonged to —the Metropolitan or Municipal or Manhattan or whatever it was; of course they will have to be picked out. We know how much each company turned in at the time of the consolidation, but since that time we have taken up mains and we paid no attention whether they were municipal or Metropolitan or otherwise. 20894 20895

By Mr. Mathewson:

Q. But the question addressed to you is whether you can state which of the mains in use belonged to each of the six original companies?

A. You can only do it by going through every item in the books.

The Witness: I could not do it. I am familiar with that kind of work and I know I could not do it in less than a month of steady work, ten

hours a day. You see, at the time of consolidation they were all turned over to the Consolidated Company; the Manhattan turned over so many million feet of main and so many feet of each size, the Metropolitan turned over so many feet of each size, and they were all put together. Now, since consolidation we take up a thousand feet of six-inch main and we do not specify whether it is Metropolitan or Manhattan we take up; we simply take up one thousand feet of Consolidated main.

20897 Q. You would have to pick back in each instance to ascertain whose they were and how many were left?

A. Yes, sir, and it is almost impossible.

CROSS-EXAMINATION BY MR. BURR:

Q. In 1884, where were you employed?"

Mr. Chambers: Now, just a second. Before he reads the cross-examination of Mr. Burr, we have Mr. Burr's and Mr. Page's name, and I would like to have it appear who Mr. Burr is counsel for, and who Mr. Page is counsel for.

Mr. Ransom: This is Mr. William P. Burr,

20898 whose name I put into the record in this connection the other day.

Mr. Chambers: And who he appeared for.

Mr. Ransom: As Assistant Corporation Counsel, appearing for John J. Delaney, Corporation Counsel, for the City of New York; Albert R. Page and Howard S. Gans, are of counsel for the Attorney General of the State of New York; and the then Commission of Gas and Electricity, and later for the defendant Public Service Commission for the First District; William R. Willcox, *et al.* Robert C. Taylor, Esq., was solicitor

for William Traverse Jerome, District Attorney of the County of New York.

Mr. Ransom (continuing reading):

"CROSS-EXAMINATION BY MR. BURR:

Q. In 1884, where were you employed?

A. In what part of 1884?"

Mr. O'Brien: Judge, you are reading this now because you have to?

Mr. Ransom: Surely, that is all, or because I think I have to, though I have great respect for Mr. Burr's examination. (Continuing reading.) 20900

"Q. Well, we will take the month of September, 1884?

A. I was the superintendent of mains for the Municipal and Knickerbocker Gas Companies.

Q. How long had you been such superintendent?

A. Since 1881.

Q. Prior to that time what had been your occupation?

A. I had been one year in the works of the company.

Q. And prior to that?

A. I was laying water mains in Vienna, Austria, for four years. 20901

Q. You went to London from Vienna?

A. I went from London to Gratz and from Gratz to Trieste, and from Trieste to Vienna; I was between that time in Gratz and Trieste.

Q. Did you take control of the mains of this company when you arrived here?

A. No, sir.

Q. What did you do then?

A. I went into the works of the company.

Q. And after you had been there a year, you took charge of the mains?

A. No, I was in the works for a year and in the office for a few months, about six months, and then took charge of the mains.

Q. When the mains of the constituent companies of the Consolidated Gas Company were taken over, did you make an examination of them?

A. No, sir, I did not.

Q. Do you know who did?

A. I do not.

Q. Do you know if any examination was made of them?

20903 A. I could not say.

Q. How soon after the date of the consolidation of the constituent companies into the Consolidated Gas Company did you take active control of the mains?

A. I took control in 1889, in May.

Q. And between 1884 and 1889 did you make any inspection of the mains which had been turned over to the Consolidated Gas Company by the constituent companies?

A. No inspection; I had control of the district between 23rd and 79th Streets and east of 5th Avenue, and I had charge of the mains in that district for the Consolidated Gas Company.

20904 Q. You know, I presume, that mains had been laid by the Municipal as long ago as 1823?

A. By the Municipal? The Municipal only started in 1876.

Q. Well, by the New York Gas Light Company?

A. Yes, about that time.

Q. How many of those mains are still in existence and in use?

A. Really, I could not say just how many; of course they commenced laying mains in 1823, and they had mains laid at the time of the consolidation, but how much of it was laid prior or as late as that I

do not know; I have inspected some of the mains that were taken up that had been laid in 1846.

Q. Well, you had occasion to examine mains laid as long ago as 1823, hadn't you?

A. I could not say as to the date the mains were laid. I had one case where a pipe was brought to my office, a main laid about 1846, as shown by the records; but any other specific dates I could not say anything about.

Q. Then you are unable to say how many miles of mains are now in existence and in use which were laid in the streets of the City of New York prior 20906
to 1823?

A. I am.

Q. Do you know that none were laid prior to 1823?

A. I will not state positively; I am not certain as to dates.

Q. Do you not know that there were mains laid by the New York Gas Light Company about that time?

A. I do not know; I could not say. I am not so old a man as that; I cannot state up to that time. I know from hearsay that the New York Gas Light Company was in existence and had mains in the ground about 1823; more than that I could not say.

Q. The Consolidated Gas Company took over the 20907
mains of the New York Gas Light Company, the Manhattan Gas Light Company, the Metropolitan Gas Light Company, the Municipal Gas Light Company, the Knickerbocker Gas Light Company and the Harlem Gas Light Company; is that correct?

A. Yes.

Q. Then, in addition to the mains of these companies in the streets of the City of New York, to your knowledge there are still in existence and in use the mains of the Standard Gas Light Company, the

New Amsterdam Gas Light Company and the Municipal Gas Light Company?

A. Yes.

Q. Is there any other company operating in the City of New York?

A. Yes.

Q. In the supplying of gas?

A. Yes.

Q. What company?

A. The Central and Northern Union.

Q. That is in the Bronx?

20008 A. That is in the City of New York, is it not? Do you mean now Manhattan, by the City of New York?

Q. I said City of New York, and you stated that the Northern Union operates; and I say, in the Bronx.

A. In the Bronx, yes, sir. Then the Bronx Gas & Electric Company operates in the Bronx; those are all. Then in Brooklyn there are the Brooklyn companies, and in Staten Island there are the Staten Island companies. Then there is the East River Company of Long Island City, and there are a great many small companies all through the Borough of Queens.

Q. But in the Borough of Manhattan there are no

20010 companies for supplying gas other than the companies I have named, are there?

A. No, sir. That is the Consolidated, the Mutual, the New Amsterdam and the Standard.

Q. And the mains of all those companies are under your observation and you have the management of them?

A. Yes.

Q. Does the character of the sub-soil affect the mains?

A. I have never found it—do you mean a cast iron main?

Q. Yes.

A. I have never found it to physically affect a cast iron pipe.

Q. What is the character of the ground in the northern part of New York? I mean in the northern part of the Borough of Manhattan?

A. In what way do you mean—character?

Q. Well, is it of rocky formation or soil formation?

A. Yes, there is a great deal of rock in the northern part of the city.

Q. And you say that in Third Avenue the surface of the street or just below the surface, from curb to curb, sixty feet, is practically occupied by the mains of the companies that you have named? 20912

A. I said entirely occupied by the mains of the companies I have named and other sub-surface structures, such as telephone or telegraph subways, the ducts for the Metropolitan Road, the water pipes, the sewers, and the columns of the elevated railroad, which take up a great deal of the ground underground, and the ducts of the trolley lines.

Q. And, as a matter of economy in the operation of the mains; if it could be done, one single large main to do the work of these various gas companies would be preferable, would it not to the number of mains that are now in the streets? 20913

A. Not as things are at present.

Q. What do you mean by that?

A. Because each main is on a separate system, there are two mains on one side of the street going from one system.

Q. Do you mean that each of the constituent companies of the Consolidated Gas Company have different systems?

A. Yes.

The Witness: I am talking about the present companies.

Q. They have each a different system?

A. They have each a different system with the exception of the Harlem and the Knickerbocker systems north of 79th Street which are consolidated.

Q. What obstacle is there in the way of having the systems of these six companies made uniform?

A. It would take an enormous amount of tearing up the streets and it would take a great deal of time and would cause a great deal of expense.

20915 Q. Which do you value most, the time or the expense?

A. Well, I don't know as to the time or the expense, or as to the inconvenience to the public, having the streets torn up from end to end for quite a long time.

Q. You would not have to tear up all the streets at one and the same time?

A. You would have to tear up a great many of them, and if I did not have a big force of men working I would never get finished.

Q. Such big force of men being conceded, and the discomfort, whatever it may be, conceded, it is pre-

20916 ferable to have the systems made uniform, is it not?

A. Yes, unquestionably; it is possible, but I do not think it is practicable.

Q. And with regard to the Standard, the New Amsterdam and the Mutual, have they each a different system also?

A. Yes.

Q. Those are the companies that you understand are controlled by the Consolidated Gas Company?

A. I have not anything to do with that at all.

Q. You have nothing to do with their control, further than to manage their mains, as you have testified?

A. To look after their mains, yes.

Q. You have not, during all the time that you have stated, been engaged in any respect as an electrician, have you?

A. Never, sir.

Q. You do not claim to be an electrical engineer, do you?

A. No, sir.

Q. You do not claim to be able to say with authority the possible consequences of electrolysis upon any given body, do you?

A. I think I can, yes. 20918

Q. Do you mean to say that you claim to be an expert in that regard?

A. I can have knowledge of a certain subject without claiming to be expert on it.

Q. So that you have no expert knowledge?

A. No, sir.

Q. Therefore, the opinions which you have ventured to express are opinions such as might be given by any man who had made observation of the conditions of the mains?

A. No, sir, it would be the opinion of a man who knew something about it.

Q. About the mains? 20919

A. About the effect of electrolysis on the mains.

Q. When do you proceed to repair or take up mains, and for what reason?

A. In the first place we strip, as I said, or overhaul, as we call it, every main on every street that is to be repaved, and every time it is repaved, too. And if we think any main is too small for the supply on that block, or the supply on that street, it is taken up and replaced by a larger one.

Q. Who informs you as to the lack of proper size of mains to carry the supply?

A. I get that from the complaints about the pressure on that street.

Q. Does that go to the engineering department first?

A. It is reported sometimes to me direct and sometimes to the shops. The shops report any complaints that come in about lack of pressure. They are turned over to me for investigation, and if I find that the complaint is due to a main of insufficient size, I ask to have a larger main laid on that street.

Q. So that the size of the mains has all to do with
20921 the character of the pressure?

A. In a certain degree, it has. If you have a block 800 feet long, and that block is entirely built up with buildings, with stoves and all that in them, a three-inch main will be too small, but if it is not so much built up, it would be ample. It depends on how much the main has to carry.

Q. Would you put it down as an engineering maxim—the larger the mains the larger the pressure?

A. No, sir.

Q. Would you say it would be less variation in pressure?

A. No, sir; there is a difference between pressure
20922 and capacity of delivery. A larger main would deliver more gas than a small one.

Q. Where there are a number of mains of different sizes, I mean, you cannot regulate the pressure as well as you could if there was one large main, can you?

A. It would depend entirely upon the consumption off the large main, and other conditions, such as elevation, etc. On a large or a small main the pressure would increase or decrease just the same, as the pressure was taken off or put on.

Q. You made an examination, I understood you to say, of mains at two different points, one at Brooklyn

Bridge and another at some place in Church Street, I think it was.

A. Church and Spring Streets.

Q. At what particular point did you make the examination near the Brooklyn Bridge?

A. I said I think the street is North William Street. It is the street that comes under the bridge and goes into Luyties' wine cellar, opposite the door of his wine cellar.

Q. Will you describe at that particular point the location of the different pipes or mains you found there?

A. I only found one main there, because we only 20924
have one. That main was on the west side of the street about—between four and five feet from the curb.

Q. What was the size of that main?

A. Four inches.

Q. When had the main been placed down in the ground?

A. I cannot say offhand, sir.

Q. Would that be shown by your books?

A. If it was laid prior to the consolidation it would not.

Q. Then you have no record of the age of the pipes laid before consolidation? 20925

A. No, sir.

Q. And when you stated, in response to the question of Mr. Mathewson, that the mains were all in perfect condition, you embraced in that general statement all the mains that had been in existence in 1884 and that still remained?

A. Yes.

Q. And that you were able to make as a positive statement from the result of your observation?

A. From the result of my seeing. As I said before, since I have been general superintendent of the com-

pany, we have overhauled over 90 per cent of our main system. We have also laid a great deal of new mains on streets newly paved, and every foot of those mains newly laid or overhauled, I saw, or practically all. It has been part of my business to see what has been put down in the streets in my district, and I see to it from one end to the other, practically all day long, and have done it practically for seventeen years.

Q. I judge from what you have testified that there is a vast network of mains all over the City of New York under every open street in the City of New

20927 York?

A. What do I understand by an open street?

Q. Every street that is actually opened?

A. Yes, there is.

Q. Is not that the statement that you made, that every opened street is occupied by mains?

A. I did not make that statement, but it is so.

Q. And it is part of your duty, is it not, to keep a record of what is done upon every main in every such street?

A. Yes, sir.

Q. And for that purpose you must have a very accurate record of the work that is done upon such

20928 mains?

A. It is not kept in detail the way you mean. I get the pay rolls every week, and it is entered up in the pay roll what is expended for new mains, repairs, overhauling and so on, subdivided under those headings.

Q. I understood you to say that you had a map showing accurately the whole system of mains in the City of New York?

A. We have maps showing the entire system of mains on the Island of Manhattan belonging to the Consolidated Gas Company, one system of maps.

Q. And you have another system showing the mains of the other companies?

A. We have copies of maps of theirs, or of maps we made ourselves before the other companies were consolidated.

Q. So taken together for your proper information you have a complete record through these maps of every main in the streets of the City of New York?

A. Yes, sir, every gas main.

Q. Every gas main, that is the only main I am speaking of.

A. Yes, sir. 20930

Q. Where is that series of maps?

A. In my office.

Q. Does that map show the data of the putting down of each main since 1884?

A. No, sir, no dates at all.

Q. In order to understand that map one would have to possess the book which you have with this accurate record you speak of?

A. No, not to understand it. If you wanted to get the distance from the curb and the depth you would have to have the book.

Q. Suppose one wanted to know what its present physical condition was, how old it was and how long it had been used, where would you seek that information? 20931

A. That I really cannot say, the books would not even tell you that.

Q. By what are you guided then in seeking to ascertain if pipes are worn out or defective?

A. The general principle we have gone on is to take every street before it is paved and examine it, whether we know that they are new mains or old mains, mains and services; and in doing so in the last seventeen years we have covered 90 per cent of the streets

of New York. Added to that Second Avenue, which has never been newly paved, we overhauled that in its entire length, and Ninth Avenue we overhauled the greater part of it and that has never been newly paved. A great many of the streets, a few of the other streets that are not newly paved, on several of those we have taken up the mains and laid new mains and so in reality there have been more than 95 per cent, I do not think there is 5 per cent that we have not gone over.

20933 Q. Certainly you must have encountered some of the mains that were laid at the time of the New York Gas Light Company?

A. Probably we did.

Q. From mere observation you would be able to tell that, wouldn't you?

A. Not at all.

Q. Then a main that was laid in 1823 might still be in perfect condition at the present time?

A. Certainly it might.

Q. And in this record that you have, does that contain the character of the subsoil in which the main is laid?

A. No, sir, nothing at all.

20934 Q. How then do you arrive at the basis of expense or cost? Is the cost of laying mains uniform throughout the City of New York?

A. Oh, no.

Q. What causes variation in cost?

A. Well, a great many things can enter into it.

Q. Tell us some of them?

A. The kind of pavement; you might encounter rock; you might encounter bad soil, filled-in soil, which is loose and requires scraping and sheathing to keep the banks up. You might in one case have to go two feet and in another five feet. You might be laying

mains up in Harlem where there is no traffic at all, or in Wall Street or Nassau Street, where there is a great deal of traffic, and it would cost a great deal more to lay it. A great many things enter into the difference in cost.

Q. Do you do the work yourself, I mean, does the company do the work itself, or does it let it out in contracts to others?

A. In nearly every case except in a few cases of large jobs, as you may call them, we do the work ourselves; we lay all mains under 30 inches in diameter ourselves, practically all. 20936

Q. Do you purchase the material?

A. The material is purchased by the purchasing agent.

Q. What does the material used in laying mains consist of?

A. Cast iron pipes, lead and yarn, principally.

Q. Pipe, lead and yarn?

A. Yes, sir.

Q. Is that all?

A. About all. Of course we have to use blocking, for blocking up the main, and use sand for repaving, and there is a little fire clay for snakes in making up the joints. 20937

Q. In your testimony before the Commission you stated that there were contracts made for such work, didn't you?

A. Yes, sir.

Q. And that these contracts were still in existence and in your custody?

A. No, sir; I never said they were in my custody. I might have said they were in existence; of course, I don't recollect what I said, but I don't think I said they were in my custody. I might have said I had access to them.

Q. Well, who has these contracts?

A. I suppose they are in charge of the secretary of the company.

Q. Have you got blueprint copies of the general map that you refer to as showing the location of all the mains in the city?

A. No, sir; the map that I refer to is a series of volumes, insurance volumes; there are 12 large volumes, and you could not possibly have prints of them. They are in book form, you know.

Q. Can you produce those books or maps here for
20939 the inspection of the engineers of the city?

A. If I can get a good truck I can.

Q. Or can they be inspected at the office where they are now by the engineers of the city?

(Question not answered.)

Q. Well, in your opinion, then, from this thorough knowledge you have of the mains there has been no depreciation in the physical condition of the mains?

A. Absolutely none.

Q. And practically the life of a gas main properly laid is eternal?

A. I won't say eternal, but it is so indefinite that I could not say how long it would be.

20940 Q. So there would be no justification for setting aside a fund for depreciation of gas mains?

A. For physical depreciation, no.

Q. And have you got the record—I think you were asked this question by Senator Page, but I will venture to ask it again—have you got the record showing the amount paid out for repairs and replacements since 1884?

A. No, sir, I have not.

Q. You have testified here and elsewhere as to the value of these mains; will you tell us by what rule or by what formula you arrive at the valuation given?

A. I made careful, close calculations, as to cost of reproducing the mains under present conditions.

Q. Well, will you let us have the process by which you arrived at that conclusion?

A. Am I to answer that?

Mr. Mathewson: He asked you the method you pursued, I suppose, in reaching that conclusion. I do not see any objection to your stating it if you have not already stated it.

The Witness: I took the cost of the pipes to start with first.

Q. Of what pipe? 20942

A. Of the pipe to be laid, for each size; for instance, if it was a 6-inch main I was computing, I would take the cost of 6-inch pipe per foot. The cost of the lead that was necessary for each joint and divide that up into the feet; and the yarn and cartage of the pipe to the works; the digging of the trench and filling of the trench, repaving of the street; and I then—

Q. Before you go any further, what did you find the repaving of the street to be?

A. I figured the repaving of the street for old pavement or old style Belgian blocks, that we repaved ourselves, at 15 cents a square yard; and the asphalt block, what we call new pavements, at $3.25 a square yard. 20943

Q. And the digging of the trench?

A. And the digging of the trench, it cost so much a foot, what we have paid for a number of years, and I have kept the details for a number of years showing the actual digging cost per foot, and I have averaged that figure.

Q. Where did you keep those figures?

A. In my own handbook, memorandum book.

Q. Where is that memorandum book?

A. Am I to produce it?

Mr. Mathewson: You were not asked to produce it, you were asked where it was.

The Witness: I have it here.

Q. Will you let me see it?

A. Well"—

The Master: Wasn't the answer finished? He said "well."

Mr. Ransom: No, there was a colloquy about its being offered in evidence if he had to produce it. (Continuing reading.)

"Q. Is this book you refer to a book of original en-
20945 tries or a book containing entries supplied to you from the Financial Department of the company?

A. No, sir, they are entries supplied to me from my own department only.

Q. And these are figures which you supplied in turn to the Financial Department of the company?

A. Yes, sir. They form part of the basis of the cost of the mains.

Q. The book you have contains no other information save as it concerns gas mains in the streets of the City of New York, does it?

A. There is a lot of information in it.

Q. On the subject of gas and gas mains?

20946 A. It is a memorandum book that I have kept year after year on different things that I cannot keep in my head, and I use it for reference.

Q. Will you let me see it? Have you any objection to letting me see it?"

Mr. Ransom: That question was not answered. (Continuing reading):

"Q. How do you arrive at your general statement with regard to cost and value? Are you basing that upon any particular point in the city, or time of laying?

A. No, sir, I take an average. As I say, I took the

average of costs that I have kept for a number of years, and struck what I thought was a fair average. I did not take a high figure or a low figure; I took the average figure.

Q. Then the data being known only to yourself, no one else could arrive at a definite or logical conclusion with regard to what the actual value or cost was?

A. No, sir, I gave it to the counsel in detail, the whole thing, how it was figured out.

Q. The sole repository for the information upon which you based the positive statement as to cost or value is a little black book in your pocket? 20948

A. I don't know. I really could not say that.

Q. What was the allowance that you made for opening the trench?

A. For what size of pipe, Mr. Burr?

Q. Well, for, say, 1 and a 1/2 inch pipe?

A. One and a half inch pipe, the width of the trench necessary to lay a one and one-half inch pipe is two feet six inches; the repaving of that trench per foot with asphalt, $3.25.

Q. The expense of opening and digging the trench, that was one of the elements you said went to make up the sum total of the cost and value?

A. The digging of the trench and the cartage and refilling, 15 cents per foot. 20949

Q. Those three items together, cartage, refilling and digging the trench, 15 cents per foot?

A. Yes, 15 cents per foot.

Q. And what other items go to make up the cost?

A. The cost of rock, which of course can be only estimated; I figured that of the subsoil which has been handled in the city, 10 per cent is rock, and I added to 10 per cent of our total mileage $1.75 per foot for rock excavation. That is a very conservative estimate.

Q. Where do you get the statement that 10 per cent is rock?

A. From my own personal knowledge. There has not been a street in New York that I have not seen dug up in the last 24 years, and I can judge pretty well.

Q. The operations from which you have deducted this average price extended over what period of years?

A. 23 years—24.

Q. Has the price of labor varied in that time?

A. It has.

Q. Have you taken into consideration that variation in the price of labor?

20951 A. I have at this time, and the variation at the time I made the computation.

Q. What was the cost of labor in digging trenches 23 years ago?

A. I could not say. The price of labor 23 years ago was $1.50 a day, and the price of labor at the present time is $1.75.

Q. Has it only advanced 25 cents a day in that time?

A. That is all for labor, unskilled labor. Skilled labor has advanced more than that.

Q. The cost of material has advanced during that extended period, has it not?

A. It has. It has gone up a great deal.

20952 Q. What was the cost of 1 1/2 inch pipe 23 years ago?

A. A 1 1/2 inch pipe, it is quite an unusual size—if you will go to 6 or 8 inches, that I am more familiar with, I would rather have it. I have not laid any inch and a half pipe; it was laid before my time. An inch and a half pipe would weigh about 5 pounds, maybe 3 1/2 pounds to the foot, possibly 4 pounds to the foot. Pipe has gone up about $3.00 a ton. Of course it would not make much difference in inch and a half pipes.

Q. How long has electricity been used as a means of transportation in the City of New York?

A. Electricity, well, since the doing away of the cable railways, and starting of the Metropolitan Underground Traction system.

Q. How long ago was that?

A. I really cannot remember exactly when it was. It was about, I should say, eight or nine years ago, maybe six or seven.

Q. And in all that time the only instance of any direct or remote effect of electrolysis that you have observed was at Church Street and at the Brooklyn Bridge?

A. Yes, sir. 20954

Q. So that would not seem to be a proper basis for putting aside a fund for the depreciation of gas mains for the injury through electrolysis, would it?

A. If those favorable conditions were going to continue, it would not be, but if the conditions are going to change, as it seems to me they are changing now, it would be.

Q. But if you judge by the past, there is no danger of its changing?

A. How far back have you got to go if you go back to the time of the starting of the Metropolitan Road? But the Manhattan Elevated Road has only been in operation for the last three years electrically, and the 20955
subway in operation only for the last year and a half, and there are a great many roads yet to go into operation, and we cannot tell what system they will use, and how much current they are going to allow to escape.

Q. The condition at the two points, the Brooklyn Bridge and Church Street, will you swear was not found prior to the installation of electricity in any of the ways you have spoken of, by transportation underground or on the surface of the streets, or elevated railroads?

A. I don't understand your question. What am I to swear to?

Q. The pitted condition that you spoke of this morning, I understood you to say that you observed—

A. I cannot swear to that, but I can swear to this, there was no current leaving our pipes previous to the starting of electrical roads, and I can swear to it that the current is leaving our pipes now after starting the electrical roads.

Q. But you saw pitting in pipes or mains before 10 years ago?

A. Not that kind of pitting, sir.

Q. Is it a special kind of pitting?

20957 A. Yes, sir.

Q. What are the characteristics that distinguish it from the pitting observed prior to the introduction of electricity.

A. Well, you mean to distinguish between rusting or pitting from other causes, is that what you mean?

Q. Yes.

A. If a pipe is pitted from other causes than electrolysis, it will be pitted over its entire length, that is, it will not be pitted in parts and the pipe perfectly solid in other places, whereas in this it is pitted here and there.

Q. How can you say that is due to electrolysis?

20958 A. I do not say it is.

Q. There may be other causes contributing to that effect?

A. The report I got in the case at Church and Spring Streets—

Q. Never mind about the report. You did get a report?

A. Yes, sir.

Q. I am only speaking now with regard to what you did yourself, and observed yourself, at these two particular points you testified with regard to?

A. We observed that there was an electric current

leaving our pipe and returning to the power house, and where the current was leaving our pipe and returning to the power house the pipe was pitted, and where it was not leaving our pipes and was not returning to the power house the pipe was not pitted.

Q. In those two instances?

A. In that instance at Church and Spring Streets.

Q. You have a record showing the cost of laying, maintaining and repairing the pipes, by size and location in the different portions of the city?

A. No, sir, I have no such record. The only record I have, a record I have, of course, sent to me in my de- 20960
partment, a weekly report of the moneys expended on different kinds of repairs and of the different branches, and the pay rolls are initialled by me after they go through, but I do not keep a record.

Q. That memorandum which you have here now in your possession, was that taken from other entries or books?

A. Taken from the pay rolls.

Q. Taken from the pay rolls?

A. Yes, sir.

Q. And all the information which you have and which you have given us with regard to the cost of laying and maintaining these mains is derived from an 20961
examination by you of the figures given in the pay rolls and which you have summarized in this book now in your possession?

A. No, sir, not as to new mains. You asked me before whether I kept account of all replacements, expenses and repairs, didn't you? And I said I did not. A new main is laid and a report is sent to me as to the cost of that as far as my department is concerned, and I keep that in my department, but what the other expenses are I know nothing at all about.

Q. Are you familiar with the mains of any other city in the United States out of New York?

A. Familiar? No, I am not.

Q. Do you know, Mr. Simpson, that the ground around the Brooklyn Bridge has been very much disturbed, that it has been dug up and replaced time and time again?

A. No, sir, the only place that has been dug up for the last number of years is in front of the bridge at the subway.

Q. Do you know whether that is a natural soil or a made soil?

A. I should say it was filled soil, filled ground.

20963 Q. Has that any effect upon the wear and tear of mains?

A. On cast iron mains, no, unless the case is very extreme.

Q. And on other kinds of mains?

A. It might on wrought iron pipes, yes.

Q. What would be the difference in effect on a wrought iron main of made soil and natural soil, or filled soil and natural soil?

A. A wrought iron pipe that is laid in poor soil and not coated its life will be quite short.

Q. What should it be coated with?

A. Opinions differ very much as to that over the

20964 country. Some people think one thing and some another.

Q. Well, what do you favor?

A. We use asphaltum paint.

Q. What else is used by others?

A. Some use red lead, some use plain black paint, some use coal tar—there are any amount of different kinds of asphalt paint, too, and B. & B. paint and paint of all sorts.

Q. Is asphalt paint more expensive than the other coating?

A. It is as expensive as any of them; I use it because I think it is the best.

Q. I want to get this clear. There are on Third Avenue, taking that as an illustration, five or six different service mains in that avenue?

A. Yes, sir.

Q. And to make repairs or to lay down new pipes, it is necessary to make five or six openings in the avenue?

A. Why should it be. Do you mean if I wanted—for each one of those five you have to make an opening for each one?

Q. Yes.

A. Of course I would. 20966

Q. So that would be, as matter of fact, you can readily see, five times as expensive as one opening would be.

A. Oh, no, because your one opening would be a great deal larger than each opening would make on each main.

Q. What I am trying to get clear in my mind is this, that if there was but one large main there, it would need but one opening to repair or replace it?

A. Yes, one very large opening, and that large opening would probably be nearly equal in size to five small ones.

Q. There being five or six mains, it needs five or six openings? 20967

A. If they were all leaking at once, which is not very likely.

Q. If they were all leaking one after the other, or all needed to be replaced or repaired one after the other?

A. It would need an opening according to the size of the main.

Q. Now, when you are called upon to repair pipes of the Standard or the New Amsterdam or the Mutual, is that charged up against the Consolidated?

A. No, sir.

Q. You keep a separate book of account for those expenses?

A. We keep absolute account of all the expenses encountered for those companies.

Q. You keep separate accounts for those three companies, do you?

A. Yes, sir.

Q. Where are those accounts kept?

A. In the accounting department.

Q. Of the Consolidated?

A. Yes, sir. I may say that this was done at the
20969 request of the city.

Q. What is the width of ditch used for a 16-inch main?

A. Three feet six to four feet.

Q. What is the width of ditch used for a 1 1/2 inch main?

A. Two feet six. You could put a 1 1/2 inch main in a trench six inches wide, but you could not work in it; the reason we have to make it 2 feet 6 is to work in it.

Q. So you only make the ditch twice as wide for a 16-inch main as you do for a main 1 1/2 inches wide?

A. Naturally, sir. If it was not required to work
20970 in it we would only make the trench 6 inches wide; since you have to have a man work in it it has got to start with 2 feet 6 inches.

Q. Now, if there was a main on Third Avenue from Grand Street to 129th Street of equal capacity with all the gas mains now in that avenue, how much of a saving could be effected in the maintenance.

A. Taking into account the cost of the new main?

Q. No, without that.

A. Without the cost of the new main? Do you mean if somebody gave us a new main?

By Mr. Page:

Q. If it were there, what would be the difference in the cost of maintenance?

A. If it was there without expense to anybody?

Q. (Question read by stenographer as follows): "Now, if there was a main on Third Avenue from Grand Street to 129th Street of equal capacity with all the gas mains now in that avenue, how much of a saving could be effected in the maintenance?"

Mr. Burr: We will assume that that one main is there. Don't you bother about who pays for it. 20972

Mr. Mathewson: If you can, answer it.

Q. Is that main to be a perfect main, tight and everything else?

By Mr. Burr:

Q. Yes, sir. Just as tight as the main there now.

A. There would be no difference in the maintenance at all.

Q. You have testified you have five or six mains there now?

A. Yes, sir, but those mains have all been put in the same condition that this main that you are talking about would be in and they are of no expense to us at the present time, practically none. 20973

Q. Then these are now new mains, practically?

A. That is exactly what they are, practically new mains.

Q. What would be the effect of say over on Eighth Avenue, does that condition prevail on Eighth Avenue, new mains?

A. Yes, sir.

Q. Does that condition prevail on all the other avenues, First and Second Avenues?

A. Yes, sir. I may state that a cast iron main consists of two things only, that is the cast iron pipe and

20974 Colin C. Simpson, Cross.

the lead used in caulking the joint. The cast iron pipe does not deteriorate, and if you take that joint and make it perfect, recaulk the joints, the main is just the same as the day it is laid.

Q. In the affidavit made by you and sworn to by you on the 4th day of May, 1906, in this suit, you say there is today no depreciation in the mains of the company; that is true, is it not?

A. No physical deterioration, didn't I say?

Q. The language you used is, there is today no depreciation in the mains of the company?

20975 A. Yes, sir.

By Mr. Page:

Q. You buy your pipe by the weight, do you?

A. Yes, sir.

Q. You have already given that inch and a half pipe as weighing 3 1 2 pounds per foot. Can you give me the weight of the different sizes of pipe that you have in use, say two inch, three inch, four inch, five inch, six inch, eight inch, ten inch, twelve inch, sixteen inch, eighteen inch, and so forth?

A. The two inch I will have to guess at.

Mr. Mathewson: Do not make any guesses.

The Witness: Then I cannot tell you. We

50976 have never bought any two inch pipe.

Q. Well, you have bought three inch?

A. Yes, sir; 13 pounds to the foot.

Q. What is the length of the pipe?

A. Twelve foot.

Q. Are all the mains 12 foot?

A. Yes, sir.

Q. And what particular kind of pipe do you call it?

A. Cast iron pipe.

Q. What is it, flanged pipe?

A. Hub and spigot pipe.

Q. And that is so of all this pipe?

A. Yes, sir.

Q. Will you give me the weight of the four inch pipe?

A. Nineteen pounds to the foot.

Q. Five inch pipe?

A. We do not buy it, it is not in use any more.

Q. Six inch pipe?

A. Thirty-two pounds.

Q. Eight inch?

A. Forty-four pounds.

Q. Ten inch?

A. That is a size we use very little of today, it is an outside size; we have some of it, I can give you 20978
the—fifty-seven pounds.

Q. Twelve inch?

A. Seventy-four pounds.

Q. Sixteen inch?

A. One hundred and fourteen pounds.

Q. Eighteen inch?

A. One hundred and thirty-six pounds.

Q. Twenty inch?

A. One hundred and sixty pounds.

Q. Twenty-four inch?

A. Two hundred and fifteen pounds.

Q. Thirty inch?

A. Three hundred and eleven pounds. 20979

Q. Thirty-six inch?

A. Four hundred twenty-five pounds.

By Mr. Mathewson:

Q. Are those exact weights or approximate?

A. Approximate; it will come very near it.

By Mr. Gans:

Q. Within about how near?

A. Oh, well, it might vary five per cent, possibly seven per cent, in some cases; it depends on the foundry making the pipe a good deal. You understand it takes more than twelve feet of pipe to lay twelve feet of main, don't forget that.

By Mr. Page:

Q. Yes, you have to allow for the hub and spigot?

A. You have to allow for the depth of the hub. In nearly five million feet it amounts to a great deal.

By Mr. Gans:

Q. How much allowance do you make?

A. Small sizes, four inches, large sizes, six.

Q. Where does the large size begin?

A. Twenty-four inches.

By Mr. Page:

Q. Below twenty-four inches you allow four?

20981 A. Twenty we allow four and one-half. Below that, four inches.

Q. And above that?

A. That varies up to thirty-six, we use six inches, and for 30 inch five inches.

Q. And twenty-four?

A. Twenty-four five inches; four and a half inches for twenty inch.

Q. Now, I suppose in the actual laying of these pipes, there is more than one pipe in the trench, isn't there? You haven't dug a separate trench for each pipe you lay. You lay two pipes in a trench, don't you?

20982 A. We never do lay two pipes together. These pipes we have in the street now have all been laid at different times.

Q. But you dig a new trench for each pipe entirely?

A. We have got to dig a new trench for each pipe.

Q. Why have you got to?

A. If you lay two pipe simultaneously you could use one trench, but none of these pipes were laid simultaneously, but were laid by different companies at different times.

Q. Well, you have laid some new pipes, haven't you?

A. Never have I laid two pipes in one trench, or two pipes in one street at once, always have been single pipes.

Q. Haven't you laid pipes yourself, new pipe in a street already occupied by a pipe?

A. Oh, yes, many a time.

Q. And in that case you dig an entirely new trench?

A. You have to.

Q. Why do you have to?

A. What else could you do?

Q. You could enlarge the trench already there, couldn't you? 20984

A. But when the pipe is in the street, they do not leave the trench open, when they get through laying the pipe it is filled in; when I get there, I have got to open the street, haven't I?

Q. Yes. It might be cheaper to blast out one side of a rock than it would be to blast a trench through both, making an entirely new trench; that is the point I am getting at?

A. Well, we have never had cases of that kind. If a pipe is laid in the street we are always alone, we have to make our own trench, and anyone laying a pipe in a trench has never, to my knowledge been able to take advantage of anybody else's trench.

Q. But there is nothing in physical laws to prevent your laying two pipes close together? 20985

A. No, but contractor laws and city laws. A contractor would not allow us to lay our pipes in his trench unless we paid him, and the city would not allow us to interfere with them.

Q. You own the trench, don't you?

A. We own the trench we make ourselves, the same as a contractor owns the trench he makes.

Q. After you pay the contractor, you own the trench, don't you?

A. How do you mean, own the trench? Own the ground the pipe is in? I don't think I quite understand what you mean.

Q. I don't see as it is very material anyway, but what I was getting at—

A. Do you mean that sometimes it is possible for two parties to go in together and each lay their own pipes in one trench?

Q. No, I do not, but is it possible for one party to lay two pipes in one trench?

A. But I tell you I have never known of a case of
20987 two companies requiring two pipes in one street at one and the same time.

Q. But you have got four pipes in Third Avenue, two on each side of the street?

A. Yes, and probably those four pipes took thirty years to lay them. That is a pipe every seven or eight years; that is a long time apart.

Q. But with regard to your supervision of the mains of the Standard, the Mutual and the New Amsterdam Companies, those are the three you specified?

A. Yes, sir.

Q. Part of your engineering force is engaged in that work besides yourself?

20988 A. The entire force, the superintendent, foremen, the men and all of them.

Q. And as to the work that is done, is that done by your men?

A. Yes, sir.

Q. On those parts?

A. Yes, sir.

Q. And that is paid for, as I understand it, by the Consolidated Gas Company?

A. No, sir, it is paid for—we pay the men but the respective companies pay us the cost.

Q. That is the cost of the laborer?

A. The cost of everything, the entire cost.

Q. Does part of your salary go into that?

A. Not directly, but indirectly it does.

Q. How indirectly?

A. Because we have the actual cost of all the labor performed, the material used, and we then add a small percentage for clerical expenses and engineering expenses.

Q. Since what day have you had charge of the mains of the other companies?

A. Since 1890, or 1891.

Mr. Mathewson: No, no, no; think a minute.

The Witness: No, I mean 1900 or 1901. 20990

Q. And is this record that you refer to, the charge that is made against these companies, kept in your office or in the office of the Accounting Department?

A. It is kept in the Accounting Department on memorandum furnished by my department.

By Mr. Gans:

Q. Are those memoranda kept on file? Are they in the form of vouchers?

A. I suppose they are kept on file in the Accounting Department.

Q. Do you O K them; do you supervise the making out of those vouchers?

A. No, I think my assistants do. 20991

Q. Do you personally audit these items of expense?

A. No, we only turn in the actual amount of labor and material furnished.

Q. Have you ever seen the bills that have been presented to the other companies?

A. Yes, sir, I see them; they come to me before they go out, and I initial them.

Q. The Accounting Department does whatever apportionment is needed with regard to the engineering expenses, and clerical expenses?

A. Yes, sir.

By Mr. Burr:

Q. Can you state what increase in the expense of your department is shown since you took the control of the maintenance of the pipes of these other companies, the Standard, the Mutual and the New Amsterdam?

A. I couldn't say.

Q. There has been an increase, however,

A. I think there naturally would be, it is more work, of course, and it would cost more to perform it.

Q. And you have the data showing that increased

20993 expense?

A. No, I have not, the Accounting Department has it.

Q. You had it originally?

A. No, I say it is all kept in the Accounting Department.

Q. From data furnished by you?

A. No, it is kept in the Accounting Department from the pay rolls turned in from my department every week.

Q. Would the pay roll kept by you show the increased expense since 1900, when you assumed the control of the maintenance of the pipes of these three

20994 companies?

A. Well, you could hardly say that because the pay rolls might change in time from many other causes than that, that would not be an indication at all. You take the pay roll, my pay rolls this winter were twenty-five per cent lower than they were last winter, a severe winter; or my pay roll one month might be much lower than the next month, on account of doing less work.

Q. Where are you able to find the data showing the increased expenses of your department since you undertook the management of pipes or mains of these three companies, the Standard, the New Amsterdam and the Mutual?

A. All the expenses we undergo for these other companies is accounted for, taken care of turned into the Accounting Department; that is charged up to these companies.

Q. Where is it and in what form—special reports upon those mains?

A. Special reports every month or every two weeks in some cases, of the amount of money expended, and the days in which it was done, and the amount of labor and material spent for the Standard, Mutual or New Amsterdam Company, as the case may be.

Q. As distinguished from the constituent companies, of the Consolidated? 20996

A. Yes, sir.

Q. And that is turned into the Accounting or Financial Department of the Consolidated?

A. Yes, sir.

Q. Will you produce those vouchers or statements?

A. It would not be right to ask me to produce papers from the Accounting Department.

RE-DIRECT EXAMINATION BY MR. MATHEWSON:

(Taken up on page 372.)

Q. Is there any 1 1/2 inch pipe now being laid by the company? 20997

A. No.

Q. Is there any 2 inch pipe being laid by the company?

A. No.

Q. What are the lowest sizes that are being laid?

A. We lay nothing less than 8 inch on any blocks or any stretch over 600 feet long.

Q. Do you know whether the subway and the elevated road use the ground return system of electricity?

A. I do not know.

Q. Do you know as to the surface trolley systems? If you do not know, just say so?

A. I do not know from real knowledge.

RE-CROSS EXAMINATION BY MR. BURR:

Q. One question in regard to these abandoned mains. To what extent were these mains abandoned and what number of mains were abandoned?

A. None.

Q. What is the paper that I now hand you, Mr. Simpson?

A. It is the paper from which I make calculations as to the value of mains.

Q. And from which you have been testifying to-

20999 day?

A. Well, I would scarcely say that. I have not been quoting from it.

By Mr. Mathewson:

Q. You have been referring to it?

A. Yes, I cannot carry all these things in my head.

By Mr. Burr:

Q. The figures you have been giving here today were taken partly from this paper?

A. Partly.

Q. And those figures upon which you based your caluclations are on that paper?

A. Some of my calculations.

Q. I was proceeding to ask you one or two ques-

21000 tions in regard to those abandoned mains. To what extent were those mains abandoned?

A. They were disconnected from the system and left in the ground.

Q. How many miles of such mains are left in the ground?

A. Oh, possibly seventy miles and more.

Q. Those seventy miles—do those mains still remain in the ground?

A. Yes, they do.

Q. Are they disconnected from the system?

A. Yes.

Q. If you desired, in order to increase the capacity of your supply, you could put new mains where those abandoned mains are, could you not, mains up to date and capable of aiding you in the extension of your service?

A. We might be able to.

Q. Would you not be able to?

A. In some cases we would, but not in all cases.

Q. Would you not, as a matter of fact, in all cases be able to?

A. No, certainly not.

Q. In what cases would you not be? 21002

A. The reason some of those mains were abandoned was that they were where we could not get at them; for instance, that they laid subways on top of them, and we could not get at them to repair them, and we were compelled to put new mains in their places.

Q. Where are those abandoned mains located?

A. They are located all over Manhattan Island, from the Battery to 180th Street.

Q. Have you a list of those abandoned mains?

A. Not in detail, no, sir.

Q. What do you mean by "not in detail"?

A. We have not the location of them in detail; we have a list of the number of feet or miles of mains 21003 that we have abandoned, each size; but just what locality they are abandoned in we have not got.

Q. Then you are able to carry out your present maximum supply of thirty million feet daily without seventy miles of mains?

A. Not seventy miles of mains that are on our books. The seventy miles of mains abandoned are not on our books.

Q. I am not speaking of them as assets for the present. I am speaking of them simply as mains.

A. No, because those mains that have been aban-

doned were abandoned because there was another main laid in their place. Do you see? The main was insufficient for the supply, and it was not worth while to take it out.

Q. So you laid another under it?

A. Under it or alongside of it, as the case may be.

Q. What kind of mains were those?

A. Mostly two and three-inch mains.

Q. That is an instance of where two gas mains were laid together, one abandoned and one new?

A. They were not laid together. The Senator was
21005 asking whether two mains were laid at the same time. One six-inch main might have been laid thirty years ago, and a new one laid in its place afterwards.

Q. Do you wish to be understood as testifying that there is a new main for every abandoned main laid alongside of the abandoned main?

A. Not always laid alongside of it, but in almost every case there is a new main for every main that is abandoned.

Q. Where did you derive your knowledge? Do you carry that in your head, or have you a record of that?

A. Well, no, I carry most of it in my head. I get
21006 orders to abandon mains and lay mains; I know what is the practice and what is being done.

Q. Does any record show when these new mains were laid in place of the abandoned mains, and when the abandoned mains were abandoned?

A. In some degree.

Q. What do you mean by "in some degree"?

A. The book I have there would very often state, "Six-inch main laid to replace three-inch main." But it don't say whether that three-inch main was taken up or abandoned, that record would not. The maps that you wish to see have marked on them, the mains abandoned, very often.

Q. Were any of those mains abandoned because of their age?

A. No, sir, not one of them.

Q. Can I be furnished with a diagram or map showing where these abandoned mains are, and their location in the street?

A. I do not think you could be furnished with an accurate one, because we have not kept the location of the abandoned mains at all. We have kept an account of the amount of mains abandoned, but not the location of them at all. That is to say, if in one branch there was abandoned 3,000 feet of three-inch, 21008
it would be reported to the office, but it would not show where.

Q. Then there is no record possessed now by the Consolidated Gas Company, showing where those abandoned mains are?

A. I do not think there is.

Q. Can you now say whether those mains belonged to the six constituent companies, or whether they are mains belonging to either the Standard, the New Amsterdam, or the Mutual?

A. No, all mains belong to the Consolidated Gas Company.

Q. Are those abandoned mains the property of the 21009
Consolidated Gas Company, or are they the mains of the Standard Gas Company, the New Amsterdam, or the Mutual?

A. The Consolidated Gas Company only.

Q. And yet you are not clear that the Consolidated Gas Company has any record of where those abandoned mains are located?

A. I did not say no record, I said probably it would be hard to get a perfect record.

Q. I am asking you if the company has any record?

A. I have a record, yes, I think it could be dug out.

Q. A record you think it could be dug out from?

A. Yes, it would have to be dug out, because we have been abandoning mains for seventeen years; and they have been reported in different fashion from time to time, from three different branches; some years we abandon a good deal, and some years less.

Q. When you come here again, will you bring with you a statement in regard to the location of the abandoned mains belonging to the Consolidated Gas Com-

21011 pany, and their location?

A. I will, if counsel directs me to; it would be a hard job to get it out.

Q. Well, you can do it if counsel directs you.

A. (None.)

Q. Can you remember now where any one of those abandoned mains is located and the size of it?

A. Not off-hand, I could not.

Q. But you have a record of the new pipes that you have laid down instead of the abandoned ones, have you not?

A. Certainly we have.

Q. So that by that record you would be able to show

21012 the location of the abandoned pipes?

A. No, when I lay a new pipe I do not always state that it was laid because another main was abandoned. I have a record of the new mains laid, of course.

Q. How is it able to be charged up on the books of the company, as to whether it is a new construction or replacement?

A. That is a thing I have nothing to do with, that part of it; that is in the accounting department.

Q. Do I understand you to say that if this new pipe or main is put down alongside of an abandoned main there is no record as to the cost of the putting

down of that particular pipe, or no record showing that it is put down alongside of an abandoned main?

A. Whenever a main is abandoned it is reported to me, and I report it to the accounting department, and I note it on my map and on my books, but I would have to go through the entire set of maps and through the entire set of books, to find out when all these seventy miles of mains were abandoned, and I think it would take me at least a month myself to dig it out.

Q. If you put down a six-inch main instead of a three-inch main, would you not have some record 21014
showing that it was alongside of a three-inch main that that six-inch main was put down?

A. Not of necessity at all, no. Why should we? If I put down a six-inch main instead of a three-inch main, or cut a three-inch main off or take it out, I report it to the accounting department that I have taken it up, or that I have disused so many feet of three-inch main, and report that I have laid so many feet of six-inch mains, too.

Q. Instead of three-inch main?

A. No, that has nothing to do with it.

Q. So that you have made such records in each case? 21015

A. Always.

Q. When you put down those new mains instead of abandoned mains?

A. Every main that is taken up or disused, and every main that is laid is reported to the accounting department.

Q. Those reports will show the whole operation, will they not, in regard to abandoned mains and new construction?

A. Yes.

Q. And the size of the pipe abandoned, and the size of the new pipes put down?

A. It would, yes.

Q. Will you produce these reports?

A. They are not in my possession; they are in the accounting department. I could not produce them.

Q. You made them?

A. No, they were not made by me; they were made by my directions and sent into the accounting department. They go out of my hands and never come back to my hands.

21017 Q. They are made by your direction for the information of the accounting department?

A. Exactly.

Q. And furnished by your department to the accounting department?

A. Yes.

Q. If you are advised by counsel, you can produce those records from the accounting department?

A. I suppose I could go to the accounting department and get them.

Q. And get them?

A. I suppose so.

By Mr. Mathewson:

21018 Q. Are those mains which are abandoned of any size which are useful to the company at all?

A. None whatever; they could not be used.

Q. They would be valueless to the company, would they?

A. Absolutely, they could not be put into use by any one.

By the Master:

Q. You were asked regarding putting two pipes in one trench. Suppose it was in one of those cross streets like 50th Street, an old main of the Manhattan Company or the Municipal Company, that had been

laid in a trench where there was rock that had been blasted out partly; do I understand that if you were now to lay a new main in that street you would start out entirely independent of the old trench and lay a new trench, or would you from your map find out where the old trench was located and put your new pipe in the old trench?

A. Certainly we would put it in the old trench; but the question Senator Page asked was if two mains were to be laid on one street at one time—

Mr. Page: Not at all.

The Witness: You did not mention anything about rock. Rock makes an entirely different proposition. 21020

Mr. Page: I asked you whether you would blast an entirely new trench through rock, or blast out one side of it.

The Witness: I did not understand that at all.

By Mr. Burr:

Q. That paper which was marked for identification, City Exhibit 1, from which you testified, was that made up by you, or was it furnished to you by the financial department?

A. It was made up by me.

Q. From your own records? 21021

A. Records as to quantities, number of feet, which were compared with the accounting department before I took them to make my figures on.

By Mr. Mathewson:

Q. You have the figures still, you said?

A. Yes, the computations were made by me.

By Mr. Burr:

Q. Can you not make a direct answer? Was that paper made up from the records which you kept in your department, or was it a paper furnished you by the financial department?

A. No, the records were from papers kept in my department and verified by ones in the accounting department.

Q. And those records you still have?

A. I still have.

By Mr. Mathewson:

Q. I understand then that if you desire to replace a small main, for instance, with a larger main, you will relay it in the same trench if you can?

A. We certainly would; absolutely; we always do.

Q. And if two mains were to be laid in the street
21023 at the same time, you would dig one trench and lay those two mains in, would you?

A. We certainly would.

Q. In other words, you take advantage of an existing trench where you can, where circumstances permit it?

A. Yes, sir."

The Master: Is that all of Mr. Simpson's testimony?

Mr. Ransom: That is all of Mr. Simpson's testimony. He was recalled on rebuttal, but that closed his testimony on direct.

Mr. O'Brien: Do you want to read his rebut-
21024 tal, too?

(No response.)

The Master: Where is the proof as to Mr. Mayer's death, can you recall? Is it clear that Mr. Mayer is dead and that it is proved?

Mr. Ransom: It was referred to two or three times.

The Master: I will take it on Judge Ransom's statement that the proof is in that the man is dead.

Mr. Ransom: It was mentioned by Mr. Mrich and by one other witness.

Mr. O'Brien: He was from out of town, was he not?

Mr. Ransom: If there is any doubt about it, you will take it subject to objection.

The Master: Yes, I will take it subject to your proving it if it is not in.

Mr. Ransom: Mr. Aldrich was at his funeral but as it came up at Mr. Aldrich's examination that was not all brought out. I have sent for Mr. Mayer's death certificate, that he died in Jersey, but it has not been received yet.

The Master: I will take the proof. 21026

Mr. O'Brien: Will your Honor ask counsel for what purpose he is offering this testimony?

The Master: Yes.

Mr. Ransom: Proof of the matters which are covered.

The Master: What is covered generally? What was Mr. Mayer called to prove?

Mr. Ransom: Mr. Mayer was a man who had had a great deal to do with construction of equipment and plant of the complainant company. He was connected with the firm of Bartlett-Hayward, to which Mr. O'Brien has often referred, in connection with doing work for the complainant company. 21027 He testified as to the nature of the company's plant and equipment; he had examined it all and had appraised it.

The Master: The actual cost?

Mr. Ransom: He appraised it.

The Master: Just an expert?

Mr. O'Brien: An expert.

Mr. Ransom: He was an expert plus—

Mr. O'Brien: Plus the fact that he was the vice president of Bartlett-Hayward.

Mr. Ransom: Plus such a knowledge as no other man at that time had.

Mr. O'Brien: Your Honor, we have right here in that same firm a man who took Mr. Mayer's place as vice president of Barlett-Hayward, who was also an employe of the complainant company, who could testify on all these things.

The Master: Wait a minute, now. So far as Mr. Mayer is an expert, called as an expert to give his judgment of value, do you think the rule goes so far as to require me to take the testimony of an expert?

Mr. Ransom: Unquestionably, under the au-
21029 thorities. Especially where the testimony of the expert is coupled with a knowledge of a peculiar sort.

The Master: I should say off-hand that that rule could not possibly mean on a retrial of an action the Court was required to take the proof of a dead witness who was merely an expert.

Mr. Ransom: There are cases which go so far as to hold squarely and in terms that where a purely opinion witness has died and it appears that the party for whom he testified in the prior suit or the first trial could have gotten plenty of others who could have examined the property
21030 just as this opinion witness did, and made up calculations just as he did, the party who had the benefit of his testimony on the first trial was entitled to have it subsequently.

The Master: Read your questions and I will see.

Mr. Ransom: But this is a situation, of course, where, as was the case with Mr. Simpson, it went beyond the mere matter of opinion evidence in the sense of a man's being brought in like some pure outsider. Both Mr. Simpson and Mr. Mayer were men who had an unique knowledge.

The Master: Go on and read the questions and I will see.

Mr. O'Brien: Your Honor, of course we can argue this out later, the legal points that are involved here, but we have not in this particular instance the reasons existant that gave rise to the rule of evidence for producing the testimony of a dead man. We have here expert testimony. I say that the officers of Bartlett-Hayward Company that sold these various pieces of equipment to the complainant company are still living. I say further that they have the man who took Mr. 21032
Mayer's place, Mr. Alton S. Miller, who testified in the Kings County Lighting Company case. He has also the unique memory or experience, if we may use the term Judge Ransom used, of having worked for the complainant company. I cite that as one of the many instances where they can produce this proof without going to the grave to get it.

The Master: Mr. Ransom says that it will bear out the proposition that, though they have other witnesses to testify to the same thing and it is opinion evidence, he can use it.

Mr. Ransom: I find there are certain further 21033
questions that were put to Mr. Simpson on direct. I will have to read that before we get to Mr. Mayer.

The Master: Very well.

Mr. Ransom: Page 1926 of the Circuit Court record (reading):

"DIRECT-EXAMINATION BY MR. MATHEWSON:

Q. You stated that pipe in 1885 for mains was lower than in 1905. How was it in 1884?

A. Very much higher.

Q. Do you know whether at times prior to 1884, pipe was higher still?

A. Very much higher still.

Q. Did you give Mr. Carter any figures in reference to services in the tax report?

A. I did not.

Q. What would you say, as to the valuation for services, $600,000 or thereabouts, services of the Consolidated Gas Company, as they appear in the tax reports?

A. It is an absurd figure.

21035 Q. Did they come from the engineering department at all, as far as you know?

A. No, sir; they did not."

Mr. O'Brien: The question you are asking in your hurried reading asks the witness to criticise a statement made by the complainant company in a return to the state tax department. I object to it as incompetent, irrelevant and immaterial.

The Master: I will take it.

Mr. O'Brien: Exception.

Q. You have already testified as to the value of mains?

A. I have.

21036 Q. Can you state what the value of the mains as to material only would be at this date, unlaid?

A. Yes"

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: The witness not having qualified as an expert on the value of mains, and the witness being asked here as to the value of the mains at a date some years anterior to the day on which he is being questioned, and this testimony now being resuscitated in the year 1910, I object to it as incompetent, irrelevant and immaterial.

The Master: I will take it.

Mr. O'Brien: Same objection.

"Q. How much?

A. The value of the pipe specials and lead which comprise the mains, leaving out the yarn or anything of that kind or blocking or valves, would approximate $4,300,000; over $3,400,000."

Mr. O'Brien: You are discrediting your own witness here.

Mr. Ransom: Not at all. What witness?

The Master: I will take it.

"Q. That would be without any laying at all, even 21038
in soft dirt?

A. Without any laying at all.

Q. You have seen the figures of the tax report, have you not?

A. I have.

Q. Does that in any way modify your testimony as to the value of mains today?

A. Not one bit, sir.

Q. Mr. Carter stated that the figures were handed to him in reference to mains in 1902. Is that your recollection?

A. Yes.

By Mr. Burr: 21039

Q. Since you were here last, have you heard anything as to the whereabouts of those poor, abandoned mains that you set adrift without a chart or compass?

A. I could tell you, if you want to know, in a general way, where they are. They are abandoned mains probably on 33 per cent of the streets of Manhattan—from 25 per cent to 33 per cent. It might not be an entire block; it might be a piece of this block and a piece of that block. Those mains range in size anywhere from an inch and a half to even some twenty inches. For instance, there is a 20-inch

main on Eighth Avenue, from 59th Street to 65th Street; that is under the car tracks and cannot be reached; it has to be abandoned.

Q. In other words they have gone to pieces?

A. No, they have not gone to pieces. The material is there. I suppose they would have to be looked after if you wanted to use them.

Q. Does that make up the 70 miles above the 822 miles that you have testified to?

A. The different abandoned mains scattered all over Manhattan make up that 70 miles.

21041 By Mr. Mathewson:

Q. I understand that none of these abandoned mains are included in the 822 miles of mains about which you have testified as to values?

A. Not one inch of them.

Cross-examination by Mr. Page:

Q. Mr. Simpson, when you were on the stand before you stated the entire mileage of the mains of the Consolidated Gas Company as 822.2 miles?

A. Yes, sir.

Q. I show you Exhibit 138 before the Gas Commission which is the same as Complainant's Exhibit

21042 86, with the exception that the first column, "Miles of Active Mains," has been omitted from Complainant's Exhibit 86. I call your attention to the fact that the mileage of mains as stated in 1905, was 795.47. That states it to be the miles of active mains?

A. Yes, sir.

Q. Making a difference of 27.2 miles. Now, I wish to know which is the correct statement of your mileage of mains?

A. They are both correct. I stated the mileage. The miles of mains in the ground is 822.2. This statement is the miles of active mains. We have a cer-

tain mileage of mains, but where they are not in active use they can by very little expense be put in use again. Such mains are still on our books but they are not active. And this says here distinctly, "Active Mains."

Q. And then all you have of active mains that are actually used in your business today is 795.47, that was used, I mean, up to the 1st of January?

A. If that statement is correct, yes, sir: I haven't it in my head. That is what active mains we have.

Q. Well, this was a statement furnished by your company?

21044

A. I suppose it is correct.

Q. Your computation of value of mains as something over twelve millions of dollars was based on the active and inactive mains, the whole 822.2 miles?

A. Yes, sir."

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, the witness not having qualified as an expert, the question being vague and indefinite as to the time about which he is asked to give a valuation, and the question embodying something more than the original cost of the property about which he is asked.

The Master: I will take it.

21045

Mr. O'Brien: Exception.

"Q. And you gave the same value to the 27.2 miles of mains that were not in use, as you did to those that were in active use?

A. Yes, sir.

Q. In arriving at your valuation of mains, exactly how did you proceed?

A. What valuation do you mean?

Q. Well, we will take first the one that you testified to here, the $12,000,000.

A. That was the reproduction value.

Q. Well, whatever you call it. That was testified to when you were on the stand the first time and gave this valuation of $12,000,000?

A. Yes, sir.

Q. Will you state and give me your method of computation?

A. I took the cost of laying the mains under ordinary conditions, to that cost added the cost of new pavement as existing in the streets of Manhattan today on 90 per cent of the mileage, that is because 90 per cent of the streets with new pavement at the

21047 present time."

The Master: It seems to me we have had that over and over again.

Mr. O'Brien: I move to strike that out on the ground it is not in conformity with the ruling of the United States Supreme Court.

The Master: I will take it.

Mr. O'Brien: Exception.

A. (Continued.) I then added for rock excavation 10 per cent of the mileage at 1.75 cents per foot. I also added for engineering expenses, clerical expenses, city inspection, interest and wear and tear on tools and appliances, obstructions on the street which

21048 would delay the work, serious obstructions met with underground, suits for damages and other undistributed expenses.

Q. And you stated that cost $12,636,150.04?"

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

"A. Yes, sir.

Q. How many miles or feet of 1 1/2-inch mains are now laid under asphalt pavements?

A. That I would not tell you, sir.

Q. Can you tell me how many miles of any sized mains are laid under asphalt pavements?

A. I cannot tell you the proportion.

Q. No, but can you tell me how many miles of 6-inch mains are laid under asphalt pavement?

A. I could not tell you without going into a very long calculation, without going over all the maps and referring to the maps showing the asphalted streets.

Q. In arriving at your result here, you did not make that kind of computation?

A. I did not, sir.

Q. In arriving at your estimate here you did not 21050
make that computation?

A. I did not. We have mains on every paved street in Manhattan, and of those paved street 90 per cent are asphalted streets.

Q. Well, that you state. Now, what price did you allow for reproduction of a main on a macadamized street?"

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

"A. I treated macadam as old pavement, and I allowed the smaller price.

Q. How many miles of main have you got under 21051
macadamized streets in the City of New York?

A. 27 miles.

Q. That particular matter you did take into consideration?

A. I did, although it should have come into the other, because up until two years ago we paid for macadam pavement in the city $1.50 a running foot for replacing it, and all those mains that are under macadamized pavement were laid under that ruling, paying $1.50 per running foot; it makes more than $5 a square yard. It is dearer than asphalt."

Mr. O'Brien: It is understood that my objection runs to the detail of these questions?

The Master: I do not believe I can rule on that statement. It is hard to tell just what you mean.

Mr. O'Brien: Well, he was asked to give a reproduction cost, and then he was asked about the various details of it, and I desire to have the objection made to run to each one of the details.

The Master: You will probably have an exception that will cover that.

21053 Mr. O'Brien: I move to strike out the questions and answers since my last objection.

The Master: Overruled.

Mr. O'Brien: Exception.

"Q. In estimating the amount that you should allow for paving what size did you allow for the trench?

A. I can read it off to you. I allowed for an inch and a half and for two inches, two feet six inches, that is, when I say width of trench, I mean width of trench repaving. The trench would be two feet wide, and in repaving the trench the contractor is allowed six inches on each side above the actual trench. That is, a trench is two feet wide, and he is allowed to

21054 charge for three feet for trim on the side. They do not always charge that, the full six inches on each side; some of them do not; so I took the minimum that he does take, and allow three inches on each side for trim. That would bring a two foot trench up to two feet six inches, and the same way down, only allowing three inches on each side. I might further say that if anything the width of trench as given in every case is too narrow, and I think anybody will bear me out, taking the most favorable conditions as to the size of trench.

Q. What size of trench did you allow for repaving for two inches?

A. The same thing as for one and one-half inch, two feet six inches.

Q. How far does the two feet six inches cover the inches of pipe in width?

A. It is necessary to have the trench at least two feet wide to work in there. Some of that pipe in there is cast-iron pipe, and they have got to get down there and lay the pipe and caulk the joints and run the joints and have working room, and you cannot work in a trench less than two feet wide. 21056

Q. I say, up to how many inches in diameter of pipe would that hold good?

A. Two feet six inches for two-inch, three feet for three-inch, three feet for four-inch, three feet for five-inch, three feet for six-inch. It is possible to work in a trench two feet six inches wide for all those sizes of pipe. When you come to the next sizes I have allowed the same for eight-inch, ten-inch and twelve-inch.

Q. What size is that?

A. Three feet six inches in each case. That is, a three-foot trench. For sixteen-inch pipe I have allowed four feet; for eighteen-inch pipe the same, four feet; for twenty-inch pipe I allow four feet six inches; for twenty-four-inch pipe, five feet six inches; for thirty-inch pipe, six feet, and for thirty-six-inch pipe, seven feet. In every case I figured it as if the trench was only in earth, and in rock it would not be much wider than that; it would not be possible to blast wider than that; you spoil too much pavement. 21057

Q. Did you make any computation to ascertain how many miles of these different sizes were laid in rock and how many in dirt?

A. No, sir, I took my general knowledge of un-

derground Manhattan and figured on that basis. I might say again that if anything I have taken almost too low a basis.

Q. You have information in your department or in the departments of the company, haven't you, to show exactly how many miles or feet of these various different varieties of mains were put down in rock?

A. No, sir; as to the mains that I have laid in recent years, that were laid under my direction, we might have that information, but the mains that were turned over at the time of consolidation and laid be-
21059 fore my time, I know nothing at all about it; there was no record kept.

Q. Did you calculate for a new trench and for repaving in the case of each mile of pipe; did you make those computations?

A. You mean each mile separately, or do you mean they are different? They are different.

Q. Did you treat these as all to be laid in the different trenches at different times?

A. I did.

Q. A large number of these were laid side by side, are they not?

A. No, sir. You mean laid at the same time, side
21060 by side?

Q. No, don't let us get on to that again. We had trouble enough with that when you were on the stand before. I mean not that these particular mains were laid at the same time, but if you were going to reproduce those mains?

A. I do not believe in any case, not with this mileage that I took here, that there are fifteen or twenty miles that are in the same trench, of the entire total, or could put in the same trench.

Q. I do not say that they are, but if you were going to put them down new, are there not some of them that could be put side by side?

A. If put down new?

Q. Yes, put down today.

A. I doubt very much.

Q. Why?

A. There would be no object in doing that. Rather than put two or three mains in one trench we would lay one large main.

Q. And if you were reproducing this system today you would in many instances lay one large main to take the place of several of the smaller mains, would you not?

A. In some instances, yes, sir. 21062

Q. Then you have taken the mains that have been laid at different times in the past seventy-five years in the City of New York and estimated what it would cost to relay those same mains under the pavements as they exist today?

A. Yes, sir.

Q. And in doing that, as I understand you have not figured for the number of miles of the different sized pipes that would be under asphalt pavements, or under any of the other pavements, but have made a general estimate?

A. I have taken the actual mileage of mains that we have. I have taken the actual percentage of streets 21063
of Manhattan that are paved with asphalt, or with granite blocks or concrete, and have taken 90 per cent as under asphalt, and the other 10 per cent as under ordinary pavement."

Mr. Ransom: I now go to page 2201 (reading):

"By Mr. Mathewson:

Q. As to the Consolidated Gas Company mains included in the 822 miles to which you have testified, are there in any case that you know of more than one line of main on each side of the same street?

A. In very few cases.

Q. You testified as to taking 90 per cent of the pavement of New York as asphalt or new pavement, and you did not figure out exactly how much main of each size was under the new pavement or within the 10 per cent of the old pavement. From your knowledge of the main system and of the streets, in your judgment is 90 per cent upon the basis on which you figure a fair, a low or a high estimate of the main value within asphalted pavement?

A. It is a very low estimate.

Q. In other words, the small sized mains are under
21065 what sort of pavement, that is, a greater proportion as compared with the large size?

A. You would have to put it this way.

Q. Well, put it your own way.

A. That mileage of paved streets is mostly in thickly settled portions of the city where the most mains are, and the other portion of the city where there are many streets not under new pavements, in nearly every case there is only one main on the street, and where the new pavements come in there are generally two.

Q. Would you think the 90 per cent estimate a conservative one?

21066 A. Very conservative. My first intention was to make it 95 per cent.

Q. And if the mains were taken and figured out, showing which were under asphalted pavements, is it your judgment that that figure would be raised or lowered?

A. I think the figure would be very close to 95 per cent.

Q. In figuring the cost of replacement today at $12,600,000 and over, did you take into consideration the obstructions covered by the present system and the electrical conduits of the trolley roads?

A. In no instance.

Q. The 10 per cent which you added did not cover that?

A. No, sir. The reason for that was that I figured that the cost of the alterations for the mains along the line of the system were already paid for by the subway people, and the many thousands of dollars that had been expended for lowering mains under trolley roads had also been paid for by the trolley people.

Q. Then if you were in fact to replace today, taking into consideration those items that would add, would it not, a considerable sum to the cost of replacement? 21068

A. A great deal of money.

Q. When you gave the figures for the tax report, were you informed that those figures were to go under the column headed 'Cost of Reproduction, New'?

A. It was not."

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial. He is asking him when he gave figures that he turned in—

Mr. Ransom: The Master declined to take the tax.

The Master: I will rule this out.

Mr. Ransom: Exception.

"Q. Were you aware of that fact?" 21069

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. Ransom: Exception. That finishes that.

The Master: I have been looking at this Mayer testimony, and I think it is perfectly useless to sit here and ask these questions and read these answers. There are pages and pages all of the same kind. They all have reference to expert testimony as to value. I think one objection will protect the interests of the defendants here.

The Master: Judge Ransom, you now propose to read the testimony of Frederick J. Mayer,

beginning at page 1348 of the Circuit Court of Appeals record?

Mr. Ransom: I am now starting to read it.

The Master: Mayer apparently was called as an expert to testify to the value of property owned by the Consolidated Gas Company at the time he testified. He says he went there with twelve people and worked for six weeks day and nights and Sundays, and even as late as midnight, which, he said, was probably the equivalent of three months' work. I do not think there is any distinction between this witness, even though he had to do with building some of these things, and an ordinary expert. He was called as an expert to give opinion evidence.

21071

Mr. Ransom: Of course his testimony shows the extent of his knowledge and the nature of it.

The Master: But he was called to give opinion evidence.

Mr. Ransom: Opinion evidence on the basis of his knowledge.

The Master: I have some doubt as to whether the rule goes as far as you claim, but not having looked into it especially I will sustain your contention that the rule does go that far, subject to reconsideration later on.

21072

Mr. Ransom: I am willing you should let me take that chance.

The Master: I suppose, Mr. O'Brien, you make the same objection to this testimony, and that the counsel for all the defendants make the same objection as you did to the Simpson testimony, plus the claim that the rule does not go so far in any event as to allow for the reading in of opinion evidence.

21073

Mr. Clark: Would your Honor like to have a memorandum on the subject?

The Master: Yes, if you have any authorities you want to submit to me I will consider them. But in the meanwhile I shall permit in evidence here the testimony of Frederick J. Mayer given on the previous case as it appears in the record, beginning at page 1348, without requiring counsel to read every question and answer, because I have looked through it, and apparently they all relate to opinion evidence and cross-examination with reference to the basis of the opinion given.

21074

Mr. O'Brien: May we assume that we are objecting to each question as incompetent, irrelevant and immaterial, and note an exception to your ruling made as to each question?

The Master: Yes, and I will overrule the objection as if it were taken to each question, and will direct counsel for the defendants that if they want to submit anything referring particularly to any question or line of questions, or to the testimony as a whole, they may make it in the form of a motion to strike out at the close of the plaintiff's case, and I will consider it.

21075

Mr. Ransom: The testimony which I am now offering to read is the testimony of Frederick J. Mayer, pages 1348 to 1656 of the Circuit Court of Appeals record.

The Master: Both inclusive?

Mr. Ransom: Yes, that is the direct by Mr. Mathewson on page 1348; the cross by Mr. Page at page 1396, and various subsequent pages; the cross by Mr. Burr at page 1614 and following, the cross by Mr. Kirby at 1667 and following, and the re-direct by Mr. Mathewson at pages 1634, 1654 and following, and the re-cross by Mr. Page on page 1648.

21076 "CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

CONSOLIDATED GAS COMPANY OF NEW YORK,
Complainant,

vs.

JULIUS M. MAYER, as Attorney General of the State of New York, WILLIAM TRAVERS JEROME, as District Attorney of New York County, FREDERICK E. GUNNISON, JOHN C. DAVIS and LUCIAN L. SHEDDEN, constituting the New York State Commission of Gas and Electricity, and THE CITY OF NEW YORK,
21077 Defendants.

Before:

ARTHUR H. MASTEN, Special Master.

21078 Met pursuant to adjournment.

New York, Tuesday, August 28th, 1906.

Present:

THE MASTER, MR. MATHEWSON, MR. MEADE, MR. PAGE, MR. BURR.

After recess.

FREDERICK J. MAYER, called as a witness on behalf of the complainant, being duly sworn, testified as follows:

DIRECT-EXAMINATION BY MR. MATHEWSON:

Q. What is your age?

A. Fifty-four.

Q. What is your business?

A. Mechanical engineer.

Q. For how long have you been a practicing mechanical engineer? 21080

A. Thirty-four years.

Q. Are you a graduate of any technical institute?

A. Yes, the School of Technology, Stuttgart, Germany.

Q. What year?

A. 1872.

Q. Are you connected now with any firm?

A. I am not.

Q. Where is your place of business?

A. Baltimore.

Q. Were you ever connected with the firm of Bartlett, Hayward & Company?

A. Yes, I was their chief engineer for 23 years, 21081 and altogether with them for 33 years.

Q. Have you ever had anything to do with the construction of gas works and apparatus?

A. Yes.

Q. How much and how long?

A. During the last 25 years.

Q. Has gas work construction been a specialty of yours and this firm of Bartlett, Hayward & Company?

A. Yes, entirely.

Q. During that time with how many gas works have you had to do in the construction of, do you think?

A. I have designed and constructed in the neighborhood of 100 complete plants, fuel, coal and water gas plants.

Q. Where?

A. Throughout the entire country.

Q. Any outside of this country?

A. Yes, partly in South America and Cuba.

Q. Have you ever designed and constructed any gas holders?

A. In the neighborhood of 400, yes, sir.

Q. Did you have anything to do with designing
21083 and constructing the heating and ventilating plants of the United States Government at Washington?

A. Yes, previous to taking up gas works construction I made plans for the heating and ventilating of all the large government buildings at Washington.

Q. With the exception of the Capitol?

A. No, sir, that was not in it, no, sir.

Q. In addition to this gas works construction, which you have testified is a speciality, have you ever been engaged in structural work for buildings other than gas plants?

A. No, sir.

Q. Have you examined and appraised the manu-
21084 facturing plants of the Consolidated Gas Company on the Island of Manhattan?

A. I have.

Q. What time was consumed in such appraisal and examination?

A. I have been working with 12 people altogether for the last six weeks, day and night and Sundays included; very often as late as midnight. I should judge that would be equivalent, ordinary working time, in the neighborhood of three months.

Q. Have you personally examined these plants?

A. I have.

Q. And the apparatus in them?

A. Yes.

Q. Every piece of it, which you have valued?

A. Yes.

Q. Have you examined the buildings?

A. I have.

Q. How about the holders which you have valued?

A. I also examined the holders, yes, sir.

Q. Are you able to state the value of the plants as they exist today?

A. I am, sir, yes.

Q. The values which you are about to give mean the 21086
cost of reconstruction of the plant new today, or is depreciation taken out or deducted, where you have observed any depreciation?

A. My figures are based on prices of today, allowing for depreciation dependent upon the condition of each apparatus, building or holder.

Q. So that your figures have taken into account depreciation and deducted it?

A. They have in each instance.

Q. If these plants were to be reconstructed new with the same capacity and of the same character, would such cost of construction therefore be greater than the figure at which you have appraised them? 21087

A. Yes, sir.

Q. I will ask you to take first the 14th Street plant of the company, located between 14th and 16th Streets on or near the East River. What sort of plant is that?

A. A coal gas plant, five million cubic feet capacity a day.

Q. And generally speaking, what area does it cover, how many blocks?

A. I would have to refer to the plans, I did not put the streets down; I have not got the plans here.

Q. Did you personally go over this?

A. I did, repeatedly.

Q. What is the value of the buildings there?

A. For the 14th Street plant—

Mr. Page: I object to the giving of this testimony in a general way. Find out what buildings there are.

Mr. Mathewson: That has already been testified to, what the buildings are.

Mr. Page: No, it has not been testified to at all; not a line of testimony about it.

21089 The Master: Why not ask him to describe the plant generally?

Q. Well, describe the plant and buildings. You have stated what the character of the plant is.

A. There is an office building—do you want the dimensions of it?

Q. Yes.

A. (Continuing.) 42 feet by 32 feet 6 inches by 23 feet 9 inches high, to the under side of the roof frontage.

Q. Go on with the other building.

A. A pay room attached to this building, a two-story brick building 28 feet 1 inch by 13 feet 1 inch

21090 by 23 feet high.

Building over alley, one story, 11 feet wide 28 feet 1 inch by 10 feet 10 inches.

Store room two-story building, 21 feet 9 inches by 28 feet 1 inch by 23 feet high.

Boiler room, one-story building, 28 feet by 44 feet by 24 feet high.

Engine room, two-story building and attic, 44 feet by 13 feet 10 inches by 24 feet high.

Exhauster house, two-story building, 28 feet 1 inch by 20 feet 6 inches by 23 feet high.

Machine shop and store, 47 feet by 28 feet by 23 feet.

Smith shop, 35 feet by 52 feet 2 inches by 23 feet high.

Condenser house, one-story building, 54 feet 1 inch by 36 feet 6 inches by 27 feet high.

Shed, one-story building, with galvanized iron sidings 38 feet 3 inches by 31 feet by 11 feet 6 inches high.

Large purifier house, 67 feet by 127 feet by 24 feet high.

Small purifier house, 40 feet 5 inches by 67 feet by 16 feet 6 inches high.

Oxide house, 37 feet 10 inches by 67 feet by 16 feet 6 inches high. 21092

Meter house, 33 feet 7 inches by 40 feet 4 inches by 24 feet high.

Center seal house, 16 feet by 16 feet 2 inches by 14 feet 9 inches high.

Another house of same description and dimensions and for the same purpose.

Boiler house, one-story brick building, 15 feet 2 inches by 38 feet 10 inches by 16 feet 6 inches.

Valve house, one-story and basement brick building, 12 feet 3 inches by 21 feet 4 inches by 12 feet 6 inches.

Now, before I have any other buildings I have the brick walls, to the boiler yard. Do you want those, or shall I continue with the buildings? 21093

Q. Just continue with the buildings?

A. Retort house, one-story brick building, 185 feet 9 inches by 245 feet 4 inches by 22 feet 9 inches.

Scrubber house, one-story brick building, 48 feet 3 inches by 12 feet by 16 feet 5 inches.

Then there are some more walls around the property, brick walls.

Q. Are those included in the value of the buildings?

A. They are on the building schedule.

Q. Just mention them as they go along then, I did not understand it?

A. There is a brick wall around the holder yard: north wall 351 feet 2 inches long, south wall 366 feet 6 inches, west wall 207 feet.

By Mr. Page:

Q. How high and how thick are the walls?

A. They average 12 inches, with 20-inch pilasters, 3-inch stone coping and 3-inch water tables. The average height is about 12 feet above grade line.

Walls between Avenues C and D, 23 feet 7 inches
21095 on 14th Street and 245 feet 4 inches on 14th Street. That forms part of the retort house wall; that is a continuation of it. Two walls, one on 14th Street, and one on 15th Street, each 131 feet 6 inches long. All of those walls are 12 inches with pilasters, with water tables and stone copings.

Shed 75 feet 6 inches by 21 feet 6 inches by 17 feet, covered with corrugated iron on wooden framing.

Another shed, same description and dimensions.

Coke storage, 131 feet 6 inches by 63 feet 8 inches. The two end walls are formed by the walls of the retort house and coal shed. The two long walls are
21096 formed by brick piers, 28 inches square, with arches between the piers.

Gas engine house, one-story brick building, 13 feet 3 inches by 41 feet 6 inches by 11 feet 3 inches.

Coal hopper, 21 feet 6 inches by 63 feet by 32 feet 7 inches one-story.

Coal shed, one-story brick building, 184 feet 5 inches by 206 feet 6 inches by 26 feet 6 inches.

Rigging house at end of coal shed, two-story building, 22 feet long by 13 feet 6 inches by 20 feet high.

Small office building 10 feet by 10 feet by 10 feet high.

Coal and coke storage. There are four lots, with cover and length of 282 feet 8 inches on the north side, 371 feet 11 inches on the south side, 226 feet 6 inches on the east side and 206 feet 6 inches on the west side. These lots are surrounded by timber fences and timber trestle work, arranged for coal handling machinery.

Another boiler and engine house combined, one-story brick building, 11 feet by 25 feet by 20 feet.

Another boiler house 16 feet by 28 feet 1 inch by 11 feet.

A circular brick building, 11 feet diameter, 54 feet 21098
high.

Another boiler house. One-story frame building, 32 feet 5 inches by 16 feet by 11 feet 6 inches.

Valve house, one-story frame building, 12 feet 4 inches by 10 feet 4 inches by 9 feet 6 inches.

Exhaust house. One-story brick and basement building, 50 feet 8 inches by 43 feet 4 inches by 20 feet 3 inches.

Boiler house. One-story brick building, 27 feet 8 inches by 32 feet by 20 feet 2 inches.

Foundations for tar and ammonia tanks.

Coke office, one-story brick building, 9 feet 5 inches by 15 feet 5 1/2 inches by 13 feet 10 inches. 21099

Boiler house. One-story brick building, 18 feet 5 inches by 19 feet 2 1/2 inches by 17 feet one-half inch, or an average of 16 feet high.

Clay mill. One-story frame building, 17 feet 1/2 inch by 29 feet 6 inches by 12 feet 3 1/2 inches.

Clay storage. Similar building, 20 feet 3 inches by 19 feet 1/2 inch by 14 feet 9 inches.

Storage shed. One open frame shed, 33 feet 5 1/2 inches by 40 feet by 9 feet 10 inches.

Another shed of similar description. 36 feet 1 inch by 19 feet 4 inches by 8 feet 11 inches high.

Stable. Two-story brick building, 50 feet by 32 feet 1 inch by 26 feet 11 1/2 inches.

Storage shed. One-story open frame building, 19 feet 6 inches by 84 feet 11 inches by 11 feet 4 1/2 inches.

Carriage room, called Shed No. 1. One-story frame building, 19 feet 10 inches by 19 feet 10 inches by 10 feet 4 1/2 inches.

Pump house. One-story frame building, 11 feet by 13 feet 2 inches by 8 feet 6 inches.

Another storage shed. One-story brick building,
21101 20 feet 9 inches by 46 feet 8 inches by 12 feet 10 inches.

Another storage building. One-story brick, 21 feet by 36 feet 4 inches by 12 feet 10 inches high.

Another storage shed, 25 feet 10 inches by 31 feet 2 inches by 10 feet high.

Q. Brick also?

A. No, corrugated iron on the east and north sides; the fence forms the south and west sides.

Fences. One iron fence, 381 feet 3 inches, 5 feet high; 251 feet iron fence, 4 feet 6 inches high; 715 feet iron fence, 3 feet high; 296 feet 6 inches timber fence, 12 feet 6 inches high; 1,170 feet wooden fence,
21102 9 feet 6 inches high; 605 feet of plank fence, of 3-inch plank, 13 feet high; 480 feet of wooden fence, 1-inch boards, 8 feet high.

Paving in holder yard. 11,140 square feet of brick, laid flat.

Another boiler house. One-story brick building, 18 feet 4 inches by 20 feet by 20 feet 9 inches long.

Weigh office. One-story and basement brick building 16 feet 5 inches by 26 feet 6 inches by 13 feet 2 inches.

Another storage building. One-story buick building, 8 feet by 7 feet 11 inches by 7 feet.

Another valve house, 10 feet by 7 feet by 12 feet.

Another boiler house, 14 feet by 20 feet by 13 feet.

Now, pile foundation on the north side of 15th Street, for a similar foundation as coal handling trestle on opposite side of the street.

A portion of a newly erected boiler house, now in course of construction.

Foundations for tower scrubbers.

Concrete. 34 feet wide, 64 feet long 4 feet deep. That is all for the buildings.

By Mr. Mathewson: 21104

Q. Have you carefully estimated the value of the buildings and structures which you have just enumerated and making deduction for deterioration or depreciation wherever you found it to occur?

A. I have.

Q. Will you state the value of those structures?

A. $691,961.

Q. Will you now describe generally the apparatus at the 14th Street plant which you have examined and valued?

A. The entire apparatus consists of all the machinery required to produce 5,000,000 feet of coal gas 24 hours, consisting of the ordinary apparatus, 21105
including benches, purifiers, exhausters, the boilers, scrubbers, condensers, meters, pipe connections, and so forth, that make a complete plant.

Q. All contained in the structures which you have just valued?

A. Yes, sir.

Q. What is the value of such apparatus, making similar deduction for depreciation where you found it to occur?

Mr. Page: I object to the question as calling for a conclusion, without any detail, not based upon anything in the case.

The Master: I will allow it.

Mr. Page: Exception.

A. In detail?

Q. Well, I think I will let you give it. Yes, you may proceed and state the apparatus which you are about to value?

A. Now, together with the apparatus I have included all the contents of all the other buildings before mentioned such as office buildings.

Q. Yes.

A. There is—office building: contents. One bookkeeper's desk. One iron safe. One roll-top desk. 21107 One chair. One flat-top desk and chair. One lavatory and toilet. One washstand. Three black walnut closets.

The Master: Excuse me a minute. Wouldn't it be possible to have these schedules or copies of them submitted as part of the witness's testimony, asking him the general questions about the value and then put those in evidence. In other words, is it necessary to sit here and by question and answer have all these items of office desks and waste baskets spread out on this record?

Mr. Page: No objection if we can have an 21108 opportunity to examine the exhibits so as to make a proper cross-examination. They probably could not be printed inside of some weeks.

The Master: That is merely a suggestion. That would be my way of doing it. But go on, if counsel insists on having it this way. Proceed.

Mr. Page: We do not insist.

The Master: I understood you did, Senator. I understood you objected to a general description and you wanted him to state the particulars.

Mr. Page: I just stated I would be perfectly

21109

willing if they would submit this schedule, or if they would give us a copy so that we would have an opportunity to examine properly. If offered in evidence in this form it probably wouldn't be printed for several weeks yet.

Mr. Mathewson: If you wish I can give you a copy of the description of this apparatus which the witness is referring to now as the witness would read it, and a description of that which he values. There are pages of it.

Mr. Kirby: If counsel would have a statement prepared giving an inventory of the plants 21110
and the value the witness puts upon them that will do.

Mr. Mathewson: You have the value in the testimony, Mr. Kirby.

The Master: You may go on, Mr. Mayer.

The Witness (continuing): One bookkeeper's desk, two roll top desks, one safe, one flat top desk, and typewriter, one washstand, one five-foot meter purifier, one drawing case filled with drawings, one toilet, one sink, chemical apparatus and books.

In the storeroom, contents: Small oil tanks and work bench and some junk. 21111

In one of the boiler houses: One Roland, 60 inches by 16 inches, 80 horse power boiler.

One Clark's steam and fire regulator.

One cast iron tank, 32 feet by 48 feet by 4 feet 6 inches deep over the boiler house.

Mr. Mathewson: In view of the time consumed in reciting these details we will prepare and deliver the description of the apparatus and contents for the total value of which I have just asked the witness, in lieu of the witness reading the items, if that is acceptable, Senator?

Mr. Page: Yes.

Q. Now, will you state the total value of the apparatus and contents of the buildings to which you have referred and which apparatus and the contents you began to enumerate?

A. $578,940.

Q. Does that allow for depreciation wherever you found it to occur?

A. Yes, sir.

Q. Have you appraised what are known as the connections or yard connections of the 14th Street plant?

21113 A. Yes, sir.

Q. That is not long, is it?

A. No, it is very short.

Q. Just state what they are and their value *in toto?*

A. There is cast iron pipe from 2 inches to 30 inches in diameter, 1,079.58 tons, 22,523 feet.

Wrought iron connections, 1 inch to 4 inches in diameter, 7,425 feet.

Valves: Six 1 inch. Twelve 1 1/2 inch. Seven 3/4 inch. Ten 1 1/4 inch. Four 2 inch. Twenty-two 4 inch. Five 6 inch. Three 10 inch. Seventeen 12 inch. Four 16 inch. Fourteen 24 inch, three

21114 way valves. Forty-eight 20 inch. Sixty-seven 30 inch.

Q. What is the total value of those yard connections?

A. $146,895.

Q. Will you now enumerate the holders connected with the 14th Street plant?

A. Six gas holders of 345,500 cubic feet capacity each; two gas holders 250,000 cubic feet capacity each. The six holders are all provided with brick tanks constructed upon pile foundations.

Mr. Page: What about the other two?

The Witness: I only gave you six.

Mr. Page: You gave us eight.

The Witness: It should be eight. The holders are all alike, six and two. There are eight holders and eight tanks.

Q. Is that all?

A. That is all for the holders.

Q. What is the total value of those holders, considering their condition today?

A. $475,356. Now, holders in steel tanks, one holder, 3,250,000 cubic feet capacity. This holder has a concrete foundation constructed upon piles and 21116
surrounded by a retaining wall. The total value?

Q. The total for holders?

A. Holders in steel tanks, $314,248.

Q. What is the total of holders both with and without steel tanks?

Mr. Page: There is just one steel tank holder, is that it?

The Witness: Yes, one steel tank holder. You want the total of all the holders?

Q. Yes.

A. The total of all holders is $789,604.

Q. In these holders I assume you have included the pile foundations and the retaining walls, etc., 21117
where they exist?

A. Yes, sir.

Q. And the tanks?

A. Yes, sir.

Q. Will you not state the total value of the 14th Street plant, including buildings, apparatus and contents, yard connections and holders to which you have testified?

A. To those prices which I have given must be added an item of ten per cent for general engineering and drawings and gradings, pavings, curbing,

sewerage, drainage, temporary fences operating tools and other utensils used for operating of plant. Water for holder tanks and other items which I overlooked in my examination.

Q. How much is this additional 10 per cent?

A. For the buildings it is $141,779. For the holders it is $78,960. And then there is an interest charge of 5 per cent, amounting to $77,978 in the instance of the buildings, and $43,428 in the instance of the holders. What I mean by buildings, that includes buildings, apparatus and pipe connections, that first

21119 total item.

Q. Did you say $140,000 on buildings?

Mr. Page: He says he meant buildings, apparatus and pipe connections.

The Witness: Yes, everything except the holders.

Q. And connections?

A. Yes, sir, everything except the holders. That makes a total for everything except the holders of $1,637,553, and everything for all holders $911,992; a total for the entire plant of $2,549,545.

Q. Is that what you consider the value today, having allowed for depreciation wherever you found it

21120 to occur?

A. You must excuse me one moment. I make the total value here $2,549,545 but there seems to be a discrepancy between my summary figure and my figure on the detailed sheet. I would like to look that over and see if there is any difference in it. The value is $2,549,545.

Q. Today, allowing depreciation?

A. Yes, sir.

Q. Now, upon what do you base this 10 per cent allowance for engineering and other items to which you have referred?

A. That is the general engineering and making of plans for the entire plant.

Q. Based upon your experience and study?

A. Yes, sir.

Q. Do you consider that a fair figure?

A. I consider it a low figure. In order to establish this figure I went especially to Baltimore a week ago for twenty-four hours in order to look over my records and I found that this item averages nearer 15 per cent than 10 per cent.

Q. You took the 10 per cent so as to be conservative? 21122

A. I made the 10 per cent so as I would be sure not to value it too high?

Q. Now, the 5 per cent interest is based, is it not, upon the assumption of the time it would require to build a plant of this kind?

A. Yes. It will take on an average two years to build a plant of this kind, any one of these plants.

Q. So assuming the construction to progress favorably, that would make a year's interest on the whole sum?

A. Yes. Of course, in the beginning you have very little expenses, and they gradually accumulate as you proceed with the construction, so I have assumed an average of one year on the total amount. 21123

Q. Now, Mr. Mayer, will you take what is known as the 42nd Street plant, located at 42nd and 43rd Streets and the North River. State whether you have examined the buildings, apparatus and yard connections and holders forming part of or connected with that plant?

A. Yes, sir.

Q. Will you describe the buildings briefly as you did before in reference to the 14th Street plant?

A. Yes. One valve house, octagonal brick build-

ing, 21 feet 10 inches by 12 feet high. That is 21 feet 10 inches between the parallel sides. One meter house, one-story brick building, 10 feet 8 inches by 22 feet 3 inches and 9 feet 6 inches high. Purifier house; one-story frame building, 160 feet by 76 feet by 20 feet. Engine and meter house, two-story brick building, 14 feet 6 inches by 28 feet. One toilet building, one-story brick, 5 feet 6 inches by 5 feet 6 inches, by 8 feet 6 inches. One retort house, 261 feet 2 inches by 62 feet 2 inches by 27 feet high. Condenser and scrubber house, two-story brick building,
21115 23 feet 3 inches by 60 feet 2 inches by 42 feet high. Retort house No. 2 and 3, 100 feet 4 inches by 118 feet 3 inches by 24 feet high. Exhauster and engine house, one-story brick building, 28 feet 6 inches by 100 feet 4 inches by 24 feet high. Retort house No. 4, one-story brick building, 34 feet 4 inches by 38 feet by 24 feet high. South and north walls of Nos. 1, 2 and 3 retort houses. Wall between purifier and exhauster houses. One shed, 12 feet by 140 feet by 12 feet high. No. 1 coal shed, one-story brick building 171 feet by 90 feet by 21 feet 9 inches high. Runways in coal sheds. Two runways 9 feet wide, 170 feet long. No. 2 coal shed, two-story brick build-
21126 ing, 89 feet 9 inches by 171 feet by 29 feet high. Carpenter shop. Small room partitioned off in second story of No. 2 coal shed. Brick fence on Eleventh Avenue, 195 feet 10 inches, 9 feet above grade, 16 inches thick. One wrought iron picket fence, same length as brick wall. Brick fence on 42nd Street, 235 feet 3 1/2 inches long. Stable and wagon shed, 98 feet 9 inches by 67 feet 10 1/2 inches by 18 feet high. Eastern extension of above building, 32 feet 10 1/2 inches by 30 feet 4 inches by 10 feet high. Additional extension, 32 feet 10 1/2 inches by 26 feet 6 inches by 14 feet high. Storage building, one-story

brick, 34 feet by 24 feet 6 inches by 20 feet. Harness house, 16 feet 6 inches by 16 feet 6 inches by 18 feet high. Coke storage office, 15 feet, 4 inches by 7 feet 4 inches by 13 feet 6 inches. Iron bridge crossing Twelfth Avenue. Span, 100 feet by 12 feet wide. Frame building for deodorizing purposes 26 feet by 20 feet 4 inches by 12 feet high. One timber pump house, 20 feet by 10 feet by 10 feet. One timber ash dump. Timber retaining fence for coke storage 700 feet. That is all.

Q. What is the capacity of this plant, Mr. Mayer?

A. 4,500,000 cubic feet of coal gas. 21128

Q. Per day?

A. Per day, yes, sir.

Q. What is the value of the buildings and structures which you have just enumerated at that plant, allowing for depreciation wherever you observed it?

A. For the buildings alone?

Q. Yes.

A. $598,848.

Q. Did you also examine and value the apparatus and contents of the buildings?

A. Yes.

Q. Of the 42nd Street plant?

A. Yes. 21129

Mr. Mathewson: I will furnish counsel, a similar description to that which we propose for 14th Street.

Q. Without taking time to enumerate them on the record will you state what the value is of the apparatus and contents at 42nd Street, depreciation deducted where you found it?

A. For the apparatus $551,743.

Q. Will you now describe the yard connections or general connections of the plant if you valued them separately?

A. Cast iron pipes and connections from three to thirty inches in diameter, 18,129 feet; steel riveted pipes from 20 to 24 inches in diameter 540 feet; wrought iron pipe connections, three inches and less, 2,800 feet; valves, three 30 inches, thirty-four 24 inches, eleven 20 inches, fifteen 16 inches, twenty-five 12 inches, three 10 inches, and ten 8 inches.

Q. What is the total value of these connections?

A. $134,157.

Q. And you also examined and valued the holders connected with the 42nd Street plant?

21131 A. Yes.

Q. Please describe them and give their values?

A. There are four holders of 250,000 feet capacity each with brick tanks constructed on pile foundations. The total cost of those holders—do you want the cost?

Q. Yes, go ahead.

A. $225,778.

Q. You mean value, the same as you have been testifying, $225,778?

A. Yes.

Q. Are those items exclusive of the 10 per cent engineering and the five per cent interest?

21132 A. Yes.

Q. Will you now state what additions you make to the figures you have given to get the entire value of the plant?

A. The entire cost of all the buildings, apparatus and connections, with ten per cent for contingencies and five per cent for interest amounts to $1,483,888.

A. How much does the ten per cent additional for engineering amount to? And how much the five per cent for interest?

A. On the items above referred to $128,474 for contingent fees and $70,666 for interest.

A. This value of $1,483,888, do I understand is the value today, allowing depreciation and deducting it where you find it to occur?

A. Yes, sir.

Q. Are there any additions which should be added, or any other items additional at 42nd Street?

A. Yes, the same ten per cent for contingencies and five per cent for interest on the value of the holders, which amounts to $22,577 for contingencies, and $12,417 for interest, making a total value for the holders, of $260,772, and the value of the entire plant $1,744,660. 21134

Q. The $1,483,888 did not include then the holders?

A. It did not.

Q. Nor the 10 per cent and the 5 per cent computed on them?

A. Not on the holders, no, sir.

Q. So that the total valuation is how much now today, deducting depreciations?

A. $1,744,660.

Q. The 42nd Street plant is a coal gas plant?

A. Yes, sir.

Q. We will now take the 44th Street plant: have you also examined and appraised the apparatus and contents, connections and holders there located? 21135

A. Yes.

Q. What kind of gas is manufactured at 44th Street?

A. Water gas.

Q. What is the capacity of the works?

A. 8,500,000 cubic feet per day.

Q. Will you now describe the buildings there in the same manner as you have for the other plants, briefly?

A. Governor house, octagonal building, 11 feet 2 1/2 inches between parallel sides, 16 feet high. Valve

house, octagonal brick building, 9 feet 7 inches between parallel sides, 18 feet six inches high. Carpenter shop, two-story brick building, 26 feet by 35 feet 6 inches by 30 feet. Lumber shop, 25 feet by 28 feet by 22 feet. Purifier house, one-story brick building, 155 feet 9 inches by 65 feet 8 inches by 30 feet. Oxide room, included in purifier house. Meter house, two-story brick building, 43 feet 9 inches by 45 feet 1 inch by 37 feet 6 inches. Condenser house, 44 feet 10 inches by 49 feet 8 inches by 32 feet 10 inches high. Engine house, two-story brick, 49
21137 feet by 44 feet 10 inches by 47 feet 1 inch. Generator house, two-story brick, 139 feet 9 inches by 65 feet 10 inches by 27 feet. Retort house, one-story brick, 207 feet by 65 feet by 21 feet. Coal hoist, wooden frame structure, a small wooden frame building. Concrete mixer shop, frame building, 25 feet by 16 feet by 9 feet. Storage, tar tank building, 12 feet by 12 feet, wood frame, corrugated iron sides. Oil pump house, two-story brick, 28 feet 9 inches by 18 feet 9 inches by 27 feet 3 inches. Tar separators, foundations for tar separating system on 12 inch piles, brick walls and concrete footing. Coal shed, frame structure 118 feet 9 inches by 69 feet 9
21138 inches by 32 feet high. Scale building, one-story brick, 6 feet by 6 feet by 9 feet. Water tower, two-story circular brick building, 20 feet in diameter by 35 feet high. Exhauster house, two-story brick building, 25 feet by 27 feet by 20 feet. Lime shed, 104 feet by 75 feet by 14 feet. Purifier and meter house, brick building, 132 feet 3 inches by 65 feet by 25 feet 6 inches; roof construction, iron trusses, iron purlines, slate covering. Stable, 60 feet by 45 feet by 20 feet, brick building. Tool shed, one-story brick, 37 feet 7 inches by 26 feet by 16 feet. Storehouse, brick building, 24 feet by 24 feet 3 inches by 16 feet 3 inches. Small brick building, 10 feet by 10 feet by

20 feet. One frame shed covered with corrugated iron, 10 feet by 8 feet by 8 feet. Blacksmith shop, frame building, 15 feet by 25 feet by 16 feet. Pipe house, storage shed for wrought iron pipe. Pump house, frame building, 8 feet by 6 feet by 7 feet. Tin roof.

By Mr. Kirby:

Q. Most of the largest buildings have iron roofs, have they not?

A. Partly iron, partly wood; the generator houses and purifier houses are wooden and some iron. Brick walls, 1,179 feet of stone and brick walls, 1,100 feet 21140
of brick fence. Shed over oil tanks, frame shed, 54 feet by 6 feet 4 inches by 5 feet 6 inches. Foundations for salt water condenser. Foundation for hot scrubber. Foundations for air condenser. Brick drainage tank underground in yard between scrubber and retort houses. Draught fan room, frame building, 12 feet by 8 feet by 8 feet. That is all for the buildings.

Q. Will you state the total valuation of the buildings?

A. Without anything added?

Q. Yes.

A. $407,767.

21141

Q. That deducts depreciation where you found it?

A. Yes, sir.

Q. Have you also examined and valued the apparatus and contents of the buildings.

A. I have.

Mr. Mathewson: We will also furnish a description of the apparatus and contents to counsel, as in the case of the other plant.

Q. Will you state what the value of the apparatus and contents is, allowing depreciation where it was found?

A. $409,175.

Q. Will you describe the yard connections and general connections which you have valued at that plant?

A. Cast iron pipe, 4-inch to 36-inch diameter, 9,117 feet; steel riveted pipe, 16 inches to 30 inches in diameter, 600 feet. Wrought iron pipe, 1 1/2-inch to 12-inch diameter, 8,702 feet. Valves: Sixty-eight 1 1/2-inch. Thirty-seven 2-inch. Thirty-six 2 1/2-inch. Forty-five 3-inch. Forty-eight 4-inch. Ten 5-inch. Thirty-four 6-inch. Seven 7-inch. Eighteen 8-inch. Four 12-inch. Nine 16-inch. Twelve 20-inch. Seventy-seven 24-inch. One 30-inch. That

21142 is all for the connections.

Q. What is the total value of the connections?

A. $99,910.

Q. Will you now describe the holders which you valued in connection with the 44th Street plant?

A. There are four holders, 375,000 cubic feet capacity each; one holder of 2,000,000 cubic feet capacity, and two holders of 125,000 cubic feet capacity each. All of the above holders are supplied with brick tanks constructed in rock excavation.

Q. What is the value of the holders?

A. $814,929.

Q. Do these figures which you have given for build-

21144 ing apparatus, connections and holders include the 10 per cent for engineer and the interest in course of construction?

A. No, sir, they do not.

Q. Now, will you state what items should be added to get the total value of the plant as existing?

A. To the building apparatus and pipe connections 10 per cent, on contingencies amounting to $91,685, and interest at 5 per cent, $50,426. To the holders for contingencies, $81,492, and for interest charges, $44,821.

Q. Why do you say 10 per cent for "contingencies"?

A. That goes on the total plant, holders and buildings and apparatus and pipe connections altogether for the items mentioned, engineer, drainage, storage.

Q. When you say "contingencies" you mean the engineer expenses, sewers and so forth, which you previously described?

A. Yes, I do.

Q. Adding these items then, what is the total valuation of the plant today, building, apparatus, connections, and holders, after deducting such depreciation as you found? 21146

A. $2,000,205.

Q. We will now take up the 21st Street plant, located between 20th and 22nd Streets, contiguous to or near the East River. Have you examined and appraised that plant as to the buildings, apparatus, connections and holders?

A. I have, sir.

Q. What gas is produced there?

A. Water and oil gas.

Q. What is the capacity of the plant?

A. Twenty-four million cubic feet of water gas per day and three and one-half million cubic feet of oil gas per day. 21147

Mr. Kirby: Did you state the capacity of the 44th Street plant?

The Witness: It is 8,500,000 feet per day of water gas.

Q. Now proceed, please, to describe the buildings at the 21st Street plant which you have appraised and valued.

A. Stove shop, one-story building, 212 feet 6 inches by 50 feet by 20 feet.

Meter shop, one-story brick building, 212 feet 6 inches by 50 feet by 20 feet.

Stove repair shop, part one-story and part two-story buildings; one-story part, 64 feet by 51 feet by 20 feet; two-story part, 20 feet 6 inches by 51 feet by 35 feet.

Stove cleaning room, 51 feet by 14 feet by 20 feet.

Diaphragm room, second story over repair shop.

Prepayment meter repair shop.

Frame shed, 98 feet by 61 feet by 15 feet.

21149 Storage room, 20 feet by 51 feet.

Wash room, 12 feet by 51 feet.

Boiler house. Brick building, 40 feet by 58 feet by 20 feet.

Oil storage house, 12 feet by 14 feet by 7 feet.

Lead house, 22 feet by 17 feet by 10 feet.

Steel frames covered with corrugated iron.

Fire hose house, 5 feet by 5 feet by 6 feet.

Frame building covered with sheathing and tin.

Valve house, 21 feet 9 inches by 28 feet by 11 feet; brick building.

Octagonal valve house, brick building, 10 feet 3 inches between parallel sides; 25 feet high.

21150 Another valve house, brick building, 15 feet 6 inches by 10 feet by 12 feet.

Tinsmith's shop, 26 feet by 28 feet by 25 feet.

Storeroom, triangular in shape, a brick building.

Paint shop, duplicate of store room.

Office, 47 feet 4 inches by 51 feet by 26 feet 6 inches high.

Engine room, 150 feet by 74 feet and 46 feet by 44 feet, both 25 feet high.

Engine room, 130 feet by 52 feet by 25 feet high.

Machine shop, 26 feet by 52 feet.

Old retort house, 306 feet by 54 feet by 23 feet.

New shop building, 47 feet by 57 feet by 15 feet.

Old carbureter house, 38 feet square.

Generator house, 204 feet by 50 feet by 30 feet.

Building over boiler and coke storage, 307 feet 3 inches by 68 feet by 25 feet high.

Generator house, 204 feet by 74 feet by 30 feet.

Retort house, 307 feet 3 inches by 74 feet by 25 feet.

Pump house, two-story brick, 20 feet by 38 feet by 29 feet 4 inches.

No. 1 shed, 185 feet 6 inches by 66 feet by 28 feet 6 inches. 21152

Numbers 2, 3, 4 and 5 sheds, same as No. 1 shed.

Purifier house, 185 feet 6 inches by 66 feet by 44 feet high.

Condenser house, 185 feet 6 inches by 66 feet by 44 feet high.

Purifier house, 185 feet 6 inches by 66 feet by 44 feet high.

Meter house, one-story brick, 92 feet by 72 feet by 28 feet high.

Shaving scrubber house, 185 feet 6 inches by 66 feet by 35 feet high.

Exhauster house, two-story brick, 64 feet 4 inches by 49 feet 10 inches by 41 feet 3 1/2 inches high. 21153

Coal shed, 150 feet by 68 feet by 34 feet high.

Water tower, circular brick building, 20 feet diameter, 225 feet high.

Excavation and foundations for 12 oil tanks underground.

Excavation for 10 separating tanks located underground.

One new foundation for additional oil tanks 57 feet in diameter by 30 feet high.

One foundation for steel tank, 16 feet by 50 feet by 2 feet 4 inches deep. That is all.

Q. What is the total valuation of the buildings described, depreciation deducted where you found it?

A. $1,579,695.

Q. Did you give the capacity of this plant?

A. I did.

Q. Have you also examined and appraised the apparatus and contents there?

A. I have.

Mr. Mathewson: We will furnish counsel a description of those.

Q. Without asking you to repeat those in detail on
21155 the record, what is the total value of the apparatus and contents, depreciation deducted?

A. $1,139,677.

Q. Will you now describe the yard connections.

A. It is not yard connections, it is the whole connections throughout the entire plant.

Q. I will change my question to the connections throughout the plant.

Mr. Kirby: I presume that applies in all instances where you have used the term yard connections, you mean yard connections and internal connections?

The Witness: Yes, all connections to the ap-
21156 pliances in the plant.

Q. You may proceed to describe the connections at 21st Street?

A. Cast iron pipe 8-inch to 36-inch diameter, 6,624 feet.

Steel riveted pipe, 16-inch to 36-inch in diameter, 4,772 feet.

Wrought iron pipes, 1 1/2-inch to 12-inch in diameter, 1,550 feet.

Valves: Sixteen 12-inch; five 16-inch; one 18-inch; eighteen 20-inch; forty-eight 24-inch; one hundred and thirteen 30-inch; twenty-seven 36-inch; twelve 36 regulator valves. That is all for that.

Q. What is your valuation for that item?

A. $218,201.

Q. Will you describe the holders which you valued at or in connection with this 21st Street plant?

A. There are four holders, 400,000 cubic feet capacity. One holder 1,500,000 cubic feet capacity. Those five holders are in brick tanks.

Q. Is that all?

A. Yes, sir. Those are all brick holder tanks.

Q. Just go on with the other holders?

A. Do you want them altogether? We separate them in the office. 21158

Q. All right, what is the value of the holders which you have named?

A. $501,840.

Q. Now, go on with the steel holders?

A. One holder 149,500 cubic feet capacity, and one holder 280,000 cubic feet capacity; they are steel tanks constructed upon concrete foundations on piles.

Q. What is the value of those holders?

A. $104,070.

Q. And the total for all the holders?

A. $665,910.

Q. What other items enter into the total value of the plant? 21159

A. Ten per cent. to the buildings, apparatus and pipe connections, amounting to $292,293, and interest charges of five per cent, amounting to $293,757, making a total for plant without holders of $3,392,895. To the value of holders must be added a charge of ten per cent, amounting to $66,591, and an interest charge of five per cent, amounting to $36,625, making the total value of all holders, $769,126.

Q. And the total value of the plant today, allowing depreciation is how much?

A. $4,162,021.

Q. What is the next plant conveniently in order? Is it the 99th Street plant?

A. Yes.

Q. Have you examined and appraised the buildings, apparatus, connections and holders at the 99th Street plant or connected with it?

A. I have.

Q. What is the capacity of the 99th Street plant?

A. 5,500,000 cubic feet in twenty-four hours.

Q. Of what kind of gas?

A. That is water gas.

21161 Q. Will you describe the buildings at that plant as you have done in the case of the other plants?

A. Engine and boiler house and pumping house, machine shop, retort house and accumulator house, five houses under one roof; 271 feet 3 inches by 57 feet 5 inches by 28 feet brick building.

Generator house, two-story brick building, 69 feet by 67 feet 4 inches by 24 feet 6 inches.

Foundations for one air condenser.

Foundations for salt water condenser.

Office building, two-story brick, 42 feet by 30 feet 8 inches by 30 feet 6 inches.

Meter house, one-story brick, 52 feet by 39 feet by

21162 27 feet.

Purifier house, one-story brick, 124 feet by 61 feet 6 inches by 30 feet.

Lime house, one-story brick, 75 feet by 15 feet 9 inches by 18 feet.

Valve house, frame shed, 10 feet by 12 feet by 10 feet.

Valve house, octagonal frame building, 8 feet between parallel sides.

Three additional valve houses, of same dimensions and description as above.

Condenser house, one-story brick, 52 feet by 39 feet by 27 feet.

Exhauster house, one-story brick building, 42 feet 8 inches by 27 feet by 25 feet.

The tar separator system.

Foundations for same.

Foundations for tar storage.

Pump pit, 23 feet by 13 feet 8 inches by 10 feet deep, of concrete.

Coal shed, one-story brick, 125 feet by 46 feet by 18 feet.

Filter press house, one-story frame, 13 feet by 20 feet by 7 seven.

Brick walls, 663 feet of wall, average height 10 feet 21164
12 inches thick.

Timber fences, dressed lumber, 9 feet high.

I have not got the number of feet for that.

Cover over domes of oil tanks.

Frame building, 7 feet 6 inches by 125 feet by 6 feet.

Foundation under hot scrubbers of concrete and steel beams.

Q. What is the value of these buildings you have described depreciation out?

A. $248,247.

Q. Have you also appraised the apparatus and contents?

A. Yes, sir. 21165

Mr. Mathewson: We will also furnish a description of these items to counsel.

Q. Without enumerating the different items on the record will you state what the value of the apparatus and contents is as you found it, deducting the depreciation?

A. $268,177.

Q. Are there any connections at that plant?

A. Yes, sir.

Q. Will you describe them, please?

A. Cast iron pipes 4 inches to 36 inches in diameter, 5,861 feet.

Steel riveted pipes, 30 inches in diameter, 339 feet.

Wrought iron pipes, 1 1/2 to 10 inches in diameter 5,552 feet.

Valves:

Four 3-inch.

Four 4-inch.

Twenty-four 3-inch.

Twenty-five 4-inch.

Thirteen 6-inch.

Ten 8-inch.

Ten 10-inch.

21167 Two 12-inch.

Eighteen 16-inch.

Sixteen 20-inch.

Thirty 24-inch.

One 30-inch.

That is all.

Q. What is the value of these connections?

A. $55,248.

Q. Will you describe the holders which you examined and appraised at or in connection with this 99th Street plant?

A. Yes, sir. Two holders 600,000 cubic feet capacity each; one holder of 300,000 cubic feet capacity;

21168 one holder 100,000 cubic feet capacity. All of the above holders are supplied with brick tanks and constructed upon a pile foundation.

Q. What is the valuation of those holders allowing depreciation where it has occurred?

A. $262,106.

Q. Are there other items to be added to obtain the full valuation less depreciation of this plant?

A. Yes, sir.

Q. Will you state what they are?

A. To the buildings, apparatus and pipe connections 10 per cent, amounting to $57,167.

Q. For what?

A. 10 per cent for general contingencies.

Q. Engineering and so forth?

A. Engineering and so forth, yes, sir. And an interest charge of 5 per cent amounting to $31,441, making a total for buildings, apparatus and connections of $660,280. To the holders will have to be added for general engineering and so forth 10 per cent, amounting to $26,210, and an interest charge of 5 per cent, amounting to $14,415, making a total for holders of $302,731.

Q. Now, what is the total value of the plant including buildings, apparatus, connections and holders today after deducting depreciation where it is found? 21170

A. $963,011.

Q. Have you also examined and appraised the 18th Street plant of the company?

A. Yes, sir.

Q. Near the North River?

A. I have.

Q. A portion of that plant has been condemned by the city, has it not, Mr. Mayer?

A. Yes, sir.

Q. Will you first describe the portion of it which is still in the possession of the company and has not been condemned, if you have that separately? 21171

A. Well, I have that now, separate entirely.

Q. Very good. What was the capacity of the plant and what kind of gas?

A. The original capacity was three million feet.

Q. Three million five hundred thousand feet, wasn't it?

A. Three million five hundred thousand feet, yes, sir.

Q. Coal gas?

A. Coal gas.

Q. Will you now describe the buildings which have not been taken by the city?

A. Five small frame sheds in holder yard.

Engine and exhauster house, one-story brick building 36 feet 6 inches by 19 feet by 15 feet 6 inches, all 30 feet high.

Valve house, one-story brick building, 19 feet by 22 feet by 20 feet.

Boiler house, one-story brick building, 46 feet 2 1/2 inches by 14 feet by 14 feet 3 inches.

One wagon shed, 21 feet by 28 feet by 15 feet of
21173 timber covered with corrugated iron.

One gas holder building of brick, 188 feet by 92 feet by 47 feet high.

Wood fences.

Coal storage yard between 18th and 19th Streets, 520 feet, about 9 feet high.

Coal storage yard between 17th and 18th Streets, 720 feet, about 9 feet high.

One brick wall across end of storage yard 12 inches thick, 180 feet.

One timber coal hoisting trestle complete in holder yard, between 18th and 19th Street.

600 feet of brick retaining wall, 12 inches thick,
21174 about 9 feet above grade.

Q. Is that all the structures?

A. That is all for the buildings.

Q. What is the value of those buildings which you have described after allowing for depreciation?

A. $268,177.

Q. Have you also examined and appraised the apparatus and contents of the building?

A. Yes, sir.

Mr. Mathewson: We will also furnish a description of those items to counsel.

Q. Without enumerating the different items on the

record, will you state what the value of the apparatus and contents is as you find it, deducting the depreciation?

A. $14,019.

Q. Are there any connection at that plant?

A. There are.

Q. Describe them, please?

A. Cast iron pipes 20 inches in diameter, 1890 feet.

Wrought iron connections, 1 to 3 inches in diameter, 360 feet.

Valves.

Eight 1-inch. 21176

Three 2-inch.

Four 16-inch.

Twenty-six 24-inch.

Q. What is the total value of those connections?

A. $21,987.

Q. Have you also examined and valued the holders?

A. Yes.

Q. Please describe them and give their value?

A. Two holders each of 205,000 cubic feet capacity, and four holders each of 255,000 cubic feet capacity. Each of the above holders is supplied with a brick tank constructed on pile foundations.

Q. What is the value of them? 21177

A. $290,943.

Q. Are the items you have given outside of the 10 per cent engineering and 5 per cent interest?

A. They are.

Q. Will you now state what additions there are, if any?

A. There is an addition for buildings, apparatus and pipe connections, 10 per cent for engineering charges, etc., amounting to $21,890, and an interest charge of 5 per cent, amounting to $12,039, making a total for building apparatus and pipe connections complete, $252,836.

Q. Now, about the holders?

A. There is an additional charge of 10 per cent for general engineering to the holders, amounting to $29,094, and an interest charge of 5 per cent, amounting to $16,000, making a total for holders of $336,037.

Q. Taking then what is the present value, allowing the depreciation where it has occurred and leaving out that portion which has been condemned by the city, including building apparatus and connections and holders, what is the value?

21179 A. $588,873.

Q. Now, will you state what has been condemned by the city and give your valuation of the plant at 18th Street?

A. The way I arrived at the value of the original plant was by applying a unit figure of $340 per thousand cubic feet capacity of works, which price does not include any holders. The unit figure of $340 was ascertained by comparison with the 14th Street and 42nd Street coal gas works.

Q. The 18th Street manufacturing plant was a coal gas plant?

A. Yes; the total value of the plant thus established

21180 is $1,190,000.

Q. Of the manufacturing plant?

A. Yes; to this value must be added the holders, consisting first of those already referred to in the 18th Street plant amounting to $336,037. Then the holders in addition to those mentioned which were contained in the original plant, consisting of four 250,000 feet holders, each in brick tanks on pile foundations, and one 3,000,000 feet holder and steel tank with concrete and tile foundation. The four brick tank holders represent the total of $223,590, and the 3,000,000 feet holder with steel tank, $347,281, mak-

21182

ing the value of the entire plant in the original condition, $2,096,908. From this figure should be deducted the value of the remaining portion of the 18th Street plant, amounting to $588,873, leaving the balance $1,508,035.

Q. You know that the 14th Street plant and the 18th Street plant were the property of the same company when the consolidation took place in 1884, do you?

A. Yes.

Q. Did you observe, as far as you were able to observe, any difference in the character of the plant so far as the cost of plant was concerned. You say you took the same figures?

21181

A. It was practically the same plant as 14th Street.

Q. And you took the figures you found as unit values at 14th Street and 42nd Street, which are coal gas plants, and applied them to the 18th Street plant so far as it had been condemned by the city?

A. I did.

Q. And it was open to your inspection?

A. No, it was not there; of course not.

Q. And you took this unit value and considered the capacity of the works and assumed that the works were of the same general character as the 14th Street and 42nd Street works?

21183

A. No, sir, I did not assume it was of the same character; I know that from my own knowledge.

Q. You knew that from your own knowledge?

A. Yes.

Q. In other words, you had seen the plant?

A. Many times.

Q. You had seen it many times before it was condemned?

A. Yes, many times.

Q. So that you were entirely familiar with the character of the plant?

A. Absolutely.

Q. And do you feel confident that your estimate of $2,096,908 is a fair estimate, from your knowledge of the plant as it originally existed?

A. I am satisfied that it was a low value, because the value was based upon the estimated values of the 14th Street plant, and in the instance of the 18th Street plant the figure could have been proportionately higher on account of better facilities for handling
21185 coal, which are not included in the 14th Street plant. These facilities consisted of iron coal bunkers supported, alongside of the retort house, upon iron columns, which is not the case in the instance of the 14th Street plant.

Q. This $2,096,908 includes, I assume, 10 per cent. for engineering expenses and 5 per cent interest, in the same manner as similar items computed at 14th Street and 42nd Street?

A. Yes.

Q. This completes, does it not, all the manufacturing plants of the Consolidated Gas Company? That is to say, where either coal or water gas has been
21186 manufactured?

A. Yes, it does.

Q. Are there in addition certain distributing holder plants or stations which you have examined and appraised?

A. Yes, there are five.

Q. Will you state what they are?

A. The 63rd Street holder station, the 65th Street station, the 111th Street holder station, the 132nd Street holder station, and the so-called Inwood station.

Q. Take the 63rd Street station. Will you describe any buildings which there are there?

A. Do you want me to describe the buildings?

Q. Yes.

A. Engine room, frame building, 24 feet by 28 feet by 10 feet; valve house, frame building, 16 feet by 30 feet by 10 feet 6 inches; boiler house, 17 feet by 30 feet by 15 feet 6 inches. Brick fence walls, 440 feet, 10 feet above grade, 5 feet 6 inches below grade; that is all.

Q. What is the value of those buildings, depreciation deducted?

A. $11,429.

Q. What apparatus is there there? There is not much apparatus described, is there? 21188

A. There is not many in this instance.

Q. State what apparatus is there.

A. In the engine room:

One 30-horsepower Morris engine, horizontal reversible.

One Sturtevant exhauster, steam and exhaust connections, countershafts and pulleys, gauges and connections.

In the valve house, one photometer.

In the boiler house:

One 66 feet by 16 feet Continental Iron Works boiler.

One Simplex Blake's pump, 6 inches by 10 inches. 21189

One Metropolitan injector, pressure gauges, pipe connections and firing tools.

In the yards:

One Duplex pump, 10 feet by 6 feet; one drip water tank with two-inch pipe connections. That is all for that.

Q. What is the value of that apparatus, allowing for depreciation?

A. $4,828.

Q. Will you describe the connections there?

A. Yes, cast iron connections 24 inches to 30 inches

diameter, 225 feet; wrought iron connections, 1 1/2 inches to 2 inches diameter, 80 feet; valves, two 24 inches and four 30 inches.

Q. What is the total valuation of such connections?

A. $7,887.

Q. Now, describe the holders there.

A. One 3-million feet holder, one retaining wall 200 feet long, one brick tank for above holder, constructed in rock excavation. That is all.

Q. What is the value of those holders?

A. $420,367.

21191 Q. Does this include any allowance for engineering and interest?

A. No, sir, it does not.

Q. Please add those items and state what the totals are?

A. For general engineering I have only made a charge in the instance of holder stations of five per cent instead of ten per cent, for the reason that I could not have overlooked as many items and omitted them from the schedule that I put in the plant, this being a very much simpler matter to examine.

Q. All the rest that you are about to describe are holder stations, including this 63rd Street station?

21192 A. On the same basis, five per cent for general engineering and five per cent for interest charges; the five per cent for engineering amounts to $1,207 and the five per cent for interest, $1,267. That is on the station without the holders, making total value $26,618.

Q. For everything exclusive of holders?

A. Yes, five per cent for engineering charges on the holders amounts to $21,018, and the five per cent interest charges, $22,069.

Q. Making a total for holders of what?

A. $463,454.

Q. What is the total value today of the building, apparatus, connections and holders at the 63rd Street station after deducting depreciation where you have found it?

A. $490,072.

Q. Take the 65th Street station and describe the buildings there.

A. Engine house, frame building, 20 by 38 by 20.

Exhauster house, two-story brick building, 37 by 42 by 45.

Boiler house, one-story brick building, 24 by 32 by 21. 21194

Boiler house extension, one-story brick building, 16 by 20 by 16.

Brick walls, 2,164 feet, averaging about 12 feet at different heights. I have the detail as to each height

Q. The total value of the buildings and structures which you have enumerated at the 65th Street station is what?

A. $51,183.

Q. Will you describe the apparatus which you have appraised there?

A. Yes.

In the engine house, one beam engine, 6 inches by 18 inches.

In the exhauster house, one 12 by 12 Rowland vertical engine with steam and exhaust piping. 21195

One 30-inch Mackenzie exhauster, gauges and connections, engine shafting and belts.

One photometer; furniture and plumbing.

In the boiler house, two horizontal tubular boilers 48 inches by 10 feet.

One horizontal tubular boiler 48 inches by 12 feet.

The above boilers are on brick settings.

One No. 2 Niagara feed pump 4 inches by 2 1/2 inches by 7 inches.

One No. 4 Korting injector.

One steel stack, with connections to boilers.

In boiler house extension:

One 66 by 14 horizontal tubular inside fire box boiler and one No. 5 Korting injector.

Q. What is the valuation of such apparatus and contents?

A. $10,159.

Q. Now, will you describe the connections at the 65th Street plant?

A. Cast iron pipes, 16 inches to 30 inches in diam-
21197 eter, 750 feet; and 260 feet of average 24-inch pipe.

Wrought iron pipe connection, 500 feet 2-inch and less in diameter.

Valves, 23 30-inch and 4 16-inch.

Q. What are the value of such connections?

A. 20,406.

Q. Will you describe the holders at that station?

A. Two holders, each 325,000 feet capacity; four holders of same capacity; two holders, each four million feet capacity. All of the above holders are constructed in brick tanks.

Q. What is the value of those holders?

A. $1,212,873.

21198 Q. Does this include an engineer allowance and interest allowance in course of construction?

A. No, sir.

Q. Please state what, if anything, should be added on that account to get the full value?

A. There should be added to the buildings, apparatus and pipe connections, for engineering charge, 5 per cent, amounting to $4,087, and interest charges of 5 per cent, amounting to $4,291, making a total of $90,126, which is exclusive of holders. Now, to the holders there should be added for engineering charges 5 per cent, or $60,643, and for interest charges $63,675, making a total for holders of $1,337,191.

Q. What is the total value of the plant at 65th Street, including buildings, apparatus, connections and holders, and allowing depreciation which has been observed?

A. $1,427,317.

Q. Now, take the next one.

A. 111th Street?

Q. Take now the 111th Street station and describe the buildings there.

A. Office, two-story brick, 50 feet by 25 feet by 31 feet 6 inches.

Exhauster house, one-story brick, 66 feet by 54 feet 21200
by 27 feet 4 inches.

Boiler house, 44 feet 3 inches by 32 feet 3 inches by 18 feet.

One-story steel frame building covered with corrugated sides and roof.

Hoisting engine house, frame shed, 13 feet by 18 feet by 7 feet.

Scale house, plain work building, 12 feet by 15 feet by 13 feet.

Stable, brick building with basement, 75 feet by 32 feet by 25 feet.

Coal storage: area, 67 feet by 52 feet.

Generator house, one-story brick, 72 feet by 48 feet 21201
by 27 feet.

Tool shed, frame building, 48 feet, 6 inches by 65 feet by 9 feet.

Retort house, brick, 200 feet by 52 feet by 22 feet.

Foundations for oil tank, 43 feet diameter, 11 feet high, of brick, 12 feet thick.

Blacksmith shop, brick, 26 feet by 34 feet by 19 feet.

Fences. Stable yard 270 feet of wooden fence 8 feet high.

Fence around holders 1,140 feet, 8 feet high.

Around works, 1,000 feet, 8 feet high.

Brick wall on First Avenue, 56 feet by 8 feet high. That is all for the buildings.

Q. What is the value of the buildings without engineer or interest charges?

A. $107,981.

Q. Will you describe the apparatus and contents of what you have valued at the 111th Street station?

A. In the office building, office furniture consisting of desks, chairs, safes and wall maps, cupboards, letterpresses, bath and toilet, steam radiators and gas fixtures. In the exhauster house, 42 valve stands for 36-
21203 inch and 24-inch valves; tool No. 11; 118 cubic, etc., 11,118 cubic feet, vertical Root's exhausters; two 16-inch by 16-inch Payne reversible link motion engines, 100 horsepower each direct connected to the exhausters.

Two 36-inch Connelly gas governors.

One Cochran feed water meter.

Steam exhaust and gauge piping and gauges.

Plumbing and piping to steam heating radiators and piping.

One photometer.

Four closets.

One toilet.

21204 One wash basin.

Boiler house.

One steel stack; 4 feet in diameter, 64 feet 8 inches high.

Bridging for above stack.

Three boilers 66 inches by 16 feet, horizontal return tubular, 90 tubes each boiler, 3 inches diameter, 16 feet long brick setting, ornamental cast iron fronts.

One Knowles pump 6 inches by 4 inches by 7 inches.

Beam and water piping for same.

One 1 1/2 inch Hancock inspirator.

In the hoisting and engine house:

One Lidgerwood hoisting engine, double cylinder, 8 1/4 inches by 10 inches.

Scale house:

One 10-ton Fairbanks wagon scale.

Stable:

Stable fittings and appliances, thirty-two stalls and feed racks.

Tool sheds:

Four old beam engines; lockers.

One lathe and tool bins.

In the retort house:

One stack of sixteen benches of six retorts each, 21206
length of retorts, 20 feet.

One stack of five benches of five retorts each; retorts 20 feet long.

In the blacksmith shop:

Forge and tools.

In the yard:

One oil tank; 43 inches diameter, 20 feet deep, of 1/4 inch plates.

One atmosphere condenser of cast iron pipe, 20 feet in diameter, in ten sections, with cast iron bases and return bends at top, 18-inch connections.

Q. What is your valuation of this apparatus which you have just enumerated? 21207

A. $103,446.

Q. Will you describe the connections at the 111th Street station?

A. Cast iron pipe, 24 inches to 36 inches, 550 feet; wrought iron pipe, 1 1/2 inches to 4 inches, 760 feet.

Valves:

Forty-one of 36-inch diameter, and one of 24-inch diameter.

Q. What is the value of such connections?

A. $27,068.

Q. Will you describe the holders at the 111th Street station?

A. Two holders, each 5,000,000 cubic feet capacity, with concrete foundations and retaining walls around lower portion of tank.

Q. What is the value of those holders without interest or engineer?

A. $704,737.

Q. Are there any items to be added to procure the full value?

A. Yes, sir. There are charges for general engi-
21209 neer, 5 per cent, to be added to the buildings, apparatus and pipe connections, amounting to $11,924, and for interest charges a similar amount of 5 per cent, $12,520, making the total for the buildings, apparatus and pipe connections $262,939. To the holders there is to be added for general engineer charges 5 per cent, amounting to $35,236, and interest charges of 5 per cent, amounting to $36,998, making a total of $776,971.

Q. What then is the total value of the plant at 111th Street, buildings, apparatus, connections and holders, after deducting any depreciation which you found?

A. The total for buildings, apparatus and pipe con-
21210 nections is $1,039,910.

Q. We will take now the 132nd Street station. Will you describe the buildings there which you have valued?

A. One governor and boiler house, brick building, 100 feet by 49 feet by 29 feet.

One stack for boilers, 125 feet high, 5 feet 6 inches and 6 feet 9 inches diameter.

Q. What is the value of those buildings?

A. $29,776.

Q. Without engineering charges or interest?

A. Yes.

Q. Will you now state the apparatus and contents at 132nd Street, which you valued. Is that long?

A. No.

One No. 11 1/2 inch vertical exhaust, 122 cubic feet capacity with flexible coupling.

One 16 1/2 inch by 24-inch horizontal Buckeye engine with reversing gear and outboard bearings, 150 horse power.

One 24-inch Connelly gas governor.

Three B. & W. boilers, set in two batteries, each with 80 tubes, 4-inch diameter by 16 feet long.

One 6-inch by 4-inch Knowles duplex plunger pump 21212

One No. 6 Cochrane feed water heater.

One No. 10 steel plate breaching.

One 3-inch Crown water meter.

One No. 12 Metropolitan injector.

One blow-off tank, 3 feet diameter, 10 feet long.

One 8-inch Hudson exhaust head and steam exhaust, water and gauge piping in gauges.

One toilet wash basin and miscellaneous plumbing.

Q. What is your valuation upon this apparatus at 132nd Street?

A. $18,979.

Q. Will you describe the connections at 132nd Street?

21213

A. Cast iron connections, 20 inch to 36 inch pipe, 2,400 feet.

Valves:

Nine 36-inch.

Seven 30-inch.

Six 24-inch.

Four 20-inch.

Q. What is the value of the connections which you have just enumerated?

A. $47,714.

Q. Please describe the holders at 132nd Street.

A. One holder, 5,000,000 cubic feet capacity, on a concrete foundation with concrete retaining wall.

Q. What is the value of this holder and the structures in connection with it which you have mentioned?

A. $393,965.

Q. Do these figures at 132nd Street represent the real value of the property, or are the engineering and interest charges still to be added?

A. Yes, sir, such charges have to be added.

Q. Please state what the additions are.

A. The additions to the buildings, apparatus, and
21215 pipe connections for engineering charges at 5 per cent, amounting to $4,823, and for interest charges are 5 per cent, amounting to $5,064, making a total for building apparatus and pipe connections of $106,356. For the holders, similar charges; for engineering, 5 per cent, amounting to $19,698, and for interest charges, 5 per cent, amounting to $20,683, making a total for holders and foundations of $434,346.

Q. What, then, is the total value of the plant at 132nd Street, including buildings, apparatus, connections, and holders, deducting such depreciation as you have observed, if any?

21216 A. $540,702.

Q. Will you now take up the Inwood station and say what buildings are there which you have valued?

A. Exhauster house in connection with dwelling, one-story building, 22 feet by 24 feet and 11 feet 4 inches and 24 feet high. Part of that was two stories.

Q. What is your valuation for those buildings, allowing any depreciation?

A. $3,230.

Q. Will you describe the apparatus at Inwood which you have valued?

A. One six-inch Makenzie exhauster, six-inch connections, with countershafting.

21217

One Smith & Sayre vertical engine, diameter of cylinder 4 inches, stroke, 6 inches.

One 12-inch governor.

One upright tubular boiler, 3 feet diameter by 6 feet high, containing 52 tubes, 1 1/2 inches diameter.

Steam connections, pipe and steam fittings, steam and gas pressure gauges.

One Cameron pump, 3 inches by 5 inches.

Q. What is the valuation of this apparatus, exclusive of engineering and interest?

A. $1,640.

21218

Q. Will you describe the connections at that station?

A. Cast iron pipes 6 inches to 12 inches, 170 feet.

Wrought iron pipe 1-inch to 2-inch in diameter, 80 feet.

Valves, six 6-inch, four 12-inch.

Q. What is your valuation for such connections?

A. $923.

Q. Will you describe the holders at the Inwood station?

A. One holder 60,000 cubic feet capacity with brick tank.

Q. What is the value of this holder?

A. $17,948.

21219

Q. Must any charges for engineering and interest be added to obtain the full value of this property at Inwood?

A. Yes, sir. Engineering charges amounting to 5 per cent to be added to the buildings, apparatus and pipe connections would be $289; for interest charges at 5 per cent, $304, for the property at Inwood, exclusive of holders, making a total of $6,386. For the holder there would have to be added an engineering charge of 5 per cent, amounting to $897, and an interest charge of $942, making the total for the holder of $19,787.

Q. What is the total value of the Inwood station, including buildings, apparatus, connections and holders, allowing for any depreciation which has taken place?

A. $26,173.

Q. What is the total valuation covering all plants and stations, respecting which you have testified, for buildings, apparatus, connections and holders, allowing depreciation out wherever it has occurred?

A. $17,040,524. This includes the 18th Street station in its original condition before a part of it
21221 was condemned by the city.

Q. Will you now state what such total valuation is, excluding that portion of the 18th Street plant which has been taken by the city and including that portion of the 18th Street station which still remains in the Consolidated Gas Company?

A. $15,532,489.

Q. In your testimony today you have first given figures for buildings, apparatus, connections and holders, not including any charge for engineering expense or interest?

A. Yes, sir.

Q. And I understand that such figures are not the
21222 real value of the buildings, apparatus, connections and holders, respectively, but are merely preliminary figures to which must be added in each case the engineering charge and interest charge in order to get the full and actual value to which you have subsequently testified?

A. Yes, sir.

Q. So that when you or counsel have used the term "value" in referring to these preliminary figures, before addition of any engineering expense or interest, we are to understand that such figures do not in your judgment represent the actual value of the property

until engineering expense and interest have been added thereto?

A. That is right, yes, sir.

Q. And do I understand that in each case the final values to which you have testified are values obtained after deduction of any depreciation which has occurred?

A. Yes, sir.

Q. You examined the property for depreciation in making your appraisal, did you not?

A. Yes, sir.

Q. And where you have spoken of buildings, or 21224
holders, or other property, you have included the usual appurtenances as you found them?

A. Yes, sir.

Adjourned to 1:30 P. M., Wednesday, August 29th, 1906.

21226 Frederick J. Mayer, Cross.

Met pursuant to adjournment.

New York, Wednesday, August 29, 1906.
1:30 P. M.

Present: The Master, Mr. Mathewson, Mr. Meade, Mr. Page, Mr. Burr, Mr. Kirby.

Mr. Mathewson: I have a correction to make in Mr. Preiss' testimony. On page 1314 the total, $14,378,516, should be $14,305,916.

FREDERICK J. MAYER resumed.

21227 The Master: You have finished your direct-examination?

Mr. Mathewson: Yes.

CROSS-EXAMINATION BY MR. PAGE:

Q. Mr. Mayer, you state that in making the appraisal, and examination and valuation of this plant that you worked for six weeks day and night and Sundays and had twelve people helping you?

A. Yes, sir.

Q. I suppose that you measured the buildings yourself or had someone do it?

A. Well, my men did, yes, sir.

21228 Q. In this time was included the time necessary to make the measurements of the various buildings?

A. Yes, sir.

Q. And as to the plant, you went through the plant and made a list yourself of the different things that were there?

A. No, my men made the list under my supervision.

Q. I mean, when I say you, I refer, of course, to the work that was done in this six weeks' time.

A. Yes.

Q. After the measurements were made and the list was prepared how long did it take you then to make the appraisal?

A. Why, I started on that from the first day; as soon as a section of the plant was finished it was sent to my office and I worked on the figures during the time the measurements for the balance of the plant were being made.

Q. Did you make any examination of the plant yourself?

A. Yes, sir, several of them.

Q. Did you examine each plant to ascertain its condition?

A. Yes, sir, as near as I could.

Q. Did you make any inquiry as to how old the 21230
various apparatus and buildings examined by you were?

A. I did, yes, sir.

Q. Did you have any information as to the original cost of the buildings or apparatus?

A. I did not.

Q. In your appraisal, then, you based your estimate upon the prices of today?

A. I did, sir.

Q. Was it your object in making this examination to ascertain what a plant would cost today that would produce the results that these plants did?

A. Yes. 21231

Q. And it was not, then, the valuation of this particular plant as it exists today?

A. Yes, it was a valuation of the plant.

Q. I understood you to say that you took as your method of valuation what it would cost to produce a plant today that would produce the results that this plant produces?

A. That is right, less the depreciation.

Q. And it is not a valuation of this particular apparatus with a view of what it originally cost, less depreciation?

A. No, sir.

Q. Then your appraisal was not of this plant, but it was an appraisal of a supposed plant that could be produced today, and some element of depreciation figured off from that?

A. Well, the same plant produced today, less depreciation.

Q. A good deal of this apparatus has been in use for a good many years, hasn't it?

A. Yes, sir.

Q. When was the 14th Street plant which you testified to yesterday built, if you know?

21233 A. In the '50's; some parts as far back as 1853.

Q. What part of it was built in 1853?

A. The retort house.

Q. Did you have placed before you the inventory of this property that was made in 1884?

A. No, sir

Q. Now, how did you arrive at the value of the buildings?

A. Well, I have constructed a great many gas works, and knew the cost of all those works I constructed. The latest built work that I constructed in this neighborhood was the works of the Kings County Gas and Illuminating Company in Brooklyn; that 21234 works was constructed in 1899. The class and character of buildings are very similar to the buildings of these various works, plain brick work with 4-inch projecting pilasters and ordinary coping at the top of the walls and wooden and iron roofs such as are generally used in gas works construction.

Q. What was the capacity of that plant?

A. That was a coal gas plant of a million and a half capacity; that is, originally a million and a half, laid out for three million, so it could be extended to that capacity.

21235

Q. Now, did you base your cost on that as a three million capacity plant or one million and a half?

A. No, sir, I took each building by itself and ascertained the cost of such building per cubic foot of contents, figured from the basement line to the eaves of the roof; those were my unit factors applied in the other buildings of the various gas works now under consideration.

Q. You did not measure the walls and compute the number of bricks that would be in those walls?

A. No, sir.

21236

Q. And the price of brick laid?

A. No, sir.

Q. I understand you assumed the Kings County works, to which you have referred, as a standard of cost?

A. I did not assume that. I knew that. That is a fact. The thickness of walls compares with the thickness of the walls of these buildings. They are practically the same.

Q. Well, I say you took that works as a standard, and using that as a standard, by the necessary multiplication produced the result that you have testified to here in regard to buildings?

21237

A. Yes, sir.

Q. Now, what do you mean by per cubic contents?

A. Well, it is merely a factor that is easily applied, almost any other factor could be adopted, such as square feet of surface.

Q. Did you ascertain what was the cubic contents of the buidings—is that what you mean?

A. Yes, sir, I did.

Q. A building enclosed by walls of a certain dimension?

A. Yes.

Q. And what is the cubic air space within that building?

A. Yes.

Q. And what did you divide that by to get your standard after you had got your cubic contents?

A. I divided the price by the number of cubic feet and that was the price per cubic foot.

Q. That would be the correct standard, would it not, if you were building up a solid building of that cubic contents, but where you are enclosing a space in walls, does that give you the proper standard?

21239 A. Yes, sir, of course; because the buildings from which I figure my value were hollow buildings; they were not solid buildings.

Q. Then, as I understand you, if the building of the Kings County works was fifty feet long on each side and twenty-five feet wide and, say, twenty-three feet high, you would get the cubic contents of that building?

A. Yes, sir.

Q. If the building at 14th Street was twice that length and the same width and the same height, then you would multiply that by two; is that right?

A. If it was twice the length?

21240 Q. Yes.

A. Yes.

Q. You would multiply it by two?

A. Yes, sir, if it was twice the length and the same width.

Q. And the same height?

A. And the same height, yes, sir.

Q. And you would take that as the cost then to be doubled?

A. Yes.

Q. Now, I call your attention to the fact, then, that you would be doubling the end walls of the building, would you not?

A. Well, there would be two end walls and a partition wall.

Q. No, not necessarily a partition wall. Why a partition wall?

A. Didn't you say a building of twice the size? You mean one continuous building without any partition?

Q. Yes.

A. Then the price would be slightly reduced.

Q. Then you would not assume the standard that you have just testified you would, you would not double the cost of that building? 21241

A. Well, it would be double, less a small omission for that brick in the partition wall.

Q. Well, would a wall twenty-five feet long and twenty-three feet high be a small deduction?

A. In that size building, yes.

Q. In that size building?

A. Yes.

Q. It is one-half the distance on one side of the first supposed building and a quarter the size of the entire side of the second supposed building, and if you doubled the two end walls you have got the size of the side wall on one building and half the side wall on the other. Do you consider that a small deduction? 21243

A. The side walls would be absolutely twice the length of the other building and the gable walls would remain the same.

Q. But your side wall on the first building would be half the length of your gable wall and in the second building it would be a quarter the length of the gable wall, or if you doubled the two gable walls it would be only half the length of the two gable walls?

A. I cannot follow you. If you double the building the side walls are twice as long.

Q. If you sat down to estimate and bid on a plant would you figure in that way?

A. For an approximiate figure I would, yes, sir.

Q. I am not speaking about approximate figures because I judge when you bid on a plant you do not make an approximation. If you were going to make figures to put in a bid to the Consolidated Gas Company for building a building, is that the way you would figure the original cost, the way you have testified here?

A. No.

21245 Q. Now, Mr. Mayer, the firm of Bartlett, Hayward & Co., with which you were connected, has been doing the erecting work of the Consolidated Gas Company for some time past, has it not?

A. Yes, sir.

Q. You have built a large number of holders for them?

A. Yes.

Q. And your concern is now the principal contractor that is building the Astoria works at Astoria, Long Island.

A. My former concern, I am not with them now.

Q. You made up the bids for the Astoria plant, did

21246 you?

A. Yes.

Mr. Mathewson: You mean for Bartlett, Hayward & Company?

Mr. Page: Yes.

The Witness: Yes.

Q. As their chief engineer you prepared the bids which were put in?

A. Yes.

Q. And upon which the contracts were afterwards awarded?

A. Yes, sir.

Q. When did you cease your connection with Bartlett, Hayward & Company?

A. May first.

Q. Of this year?

A. Yes, sir. Practically in December last before I went to Europe, but actually not until May first.

Q. What is your business now?

A. Consulting engineer, making a specialty of gas works construction and special apparatus for gas works.

Q. I suppose your relations are still friendly with Bartlett, Hayward & Co.? 21248

A. Very, I am glad to say, yes.

Q. In arriving at your valuation upon the plans, and by that I refer to the apparatus rather than the buildings, did you take also some standard of valuation like this Kings County works?

A. I did.

Q. And you computed then that works that produce one million feet are worth so much, and works that produce five million are worth five times as much, is that the way you did it?

A. No, sir, I did not.

Q. Well, how did you? What figure did you use as a multiplier? 21249

A. I figured on each and every apparatus and each and every connection throughout the entire works, separately, and applied as a factor the particular cost of each apparatus.

Q. And the factor of cost you obtained by taking the cost price of the Kings County works, is that it?

A. I did not, only for the buildings.

Q. Well, I asked you that. Read him that question; probably he did not understand it.

Q. (Repeated.) In arriving at your valuation upon the plant, and by that I refer to the apparatus

rather than the building, did you also take some standard of valuation like this Kings County works?

A. In a general way I applied a factor as I did in the Kings County buildings, but the factor for the apparatus is entirely different from the factor for the buildings.

Q. What is the factor for the apparatus which you applied?

A. The weight of the apparatus, multiplied by a certain number of cents per pound.

Q. The weight of the apparatus multiplied by a
21251 certain number of cents per pound.

A. Yes, varying in amount as the apparatus varies.

Q. Well, you ascertained the value of the bench at 14th Street by that factor?

A. I know what the fire brick and the red brick are worth for a bench of sixes, with elevator furnace. I know what it cost for benches of fives with full depth furnace, and I know what it cost for a direct fire furnace. I add the iron work to those figures at a certain price per pound.

Q. Then, in estimating the apparatus you would not take it by weight entirely and multiply the number of pounds by a certain number of cents, would
21252 you?

A. No, they are partly brick work in the construction; you could not multiply it by a certain number of cents per pound.

Q. Did you take the price of brick as it is of today, or as it was in 1899?

A. I got the price of the bench complete from several fire brick manufacturers in New York, for what they would place those benches in position today, and to that I added my price for the iron work.

Q. Now, we will take up the retorts. How many benches are there in that?

A. Which one?

Q. 14th Street?

A. There is one retort house containing four stacks of thirty benches each.

Q. How many retorts to a bench?

A. I am just looking for another retort house. Do you just want to consider that one house?

Q. Is there more than one retort house there?

A. Yes, sir, I think there is. That is all for the benches.

Q. How many retorts to a bench?

A. Six retorts to a bench.

Q. That would make altogether 180, would it not? 21254

A. I beg your pardon; there is another stack of benches, twenty-four of those.

Q. With six retorts to a bench?

A. Yes.

Q. What is the size of the first 180 retorts that you have spoken of?

A. 12 inches by 21 inches by 8 feet 6 inches long.

Mr. Mathewson: In the first there are four stacks of thirty benches each. That would be 120, and six to a bench.

The Witness: 720 retorts in the first four stacks.

Mr. Mathewson: That would make 864, would 21255 it not?

The Witness: Yes; six times thirty times four is 720 in the first four stacks.

Q. 720 retorts in the first four stacks?

A. Yes, and there is 144 in the other stacks.

Q. What is the size of those?

A. 12 inches by 21 inches by 8 feet 6 inches.

Q. If you were to build a plant today would you put in that size retort?

A. Yes.

Q. You would I suppose if it were specified, but

as a gas engineer, if you were to devise an efficient up-to-date plant, would you use that size of retort?

A. For that kind of installation I would, yes, if it was a horizontal installation and I had the space at my disposal.

Q. Well, this is a horizontal installation, is it not?

A. Yes.

Q. Do you know how long ago that was installed, those particular stacks?

A. It was built in 1900, the last stack.

Q. Of those particular four stacks?

21257 A. Yes.

Q. How much was added at that time, or was it just a renewal?

A. Just renewal; replaced.

Q. Do you know when the others were replaced?

A. I have it here 1900 for the entire house; I suppose they were all reproduced at that time.

Q. What do you mean by resetting?

A. That is a term applied to the construction of benches.

Q. And when it is so applied to the construction of benches what does it mean?

A. That the entire material inside of the arches
21258 was reset, or the entire arches are filled with new material.

Q. That means that the fire brick is built in of which the retort is built?

A. Fire bricks, retorts, tiles, and setting; everything complete.

Q. You spoke of fire brick and the retort as something separate. Is not the retort made of fire brick?

A. No, sir.

Q. What is it made of?

A. Fire clay.

Q. When you burn it it becomes fire brick, don't it.

A. No, sir, in that shape it don't.

Q. Everything else then was old, as I understand it, except that the retort inside the arches was filled with fire clay and the retort built, but the brick work was the same as it has been for a number of years before, and the size within the arches was the same?

A. The arches themselves formed the old brick work.

Q. When you refer to the arches to what particular arch do you refer? The arches that are below the 21260
retorts or the arches within which the retorts are placed?

A. Each bench consists of an arch built of fire brick, and the arch consists of two side walls and the arch on top, and the entire space within this arch is filled with setting. The setting consists of retorts, etc.

Mr. Mathewson: Is there any arch below?

The Witness: There is not.

Mr. Page: There is an arched space, is there not?

A. An arched space all above.

Q. Then there is not an arch, as you refer to it, 21261
for gas making, but there is an arch that an ordinary man would see there and call it an arch, is there not?

A. Yes.

Q. Wherein does resetting differ from tearing down and rebuilding?

A. That is what it practically is. We tear out and rebuild the entire setting.

Q. The setting?

A. Yes, take everything that there is and replace it all new.

Q. What is taken down and what is left standing?

A. The entire interior work contained in the arch is taken out and rebuilt from new material.

Q. How frequently, in the ordinary operation of a gas plant, do you have to thus renew the retorts?

A. About every three years.

Q. And you say the last of that which was done here was when?

A. 1900, but it has been reset since then later, I believe.

By Mr. Mathewson:

Q. Look at your memorandum there, if it is a
21263 copy of this, and you can find it.

A. I have it 1900. (Mr. Mathewson indicates on the memorandum.) Yes, there is something in 1904 and 1905.

By Mr. Page:

Q. The brick work within which these arches are fixed is the same as it has been for a great many years?

A. Yes.

Q. And when you refer to resetting it is merely a renewing of the retorts that takes place about once in three years?

A. Yes.

21264 Q. And otherwise than that those first four coal stacks are the same as they were in 1884?

A. That I could not say, it is possible that the entire arches have been rebuilt since that time.

Q. Of course all things are possible. I was asking for your information if any has been given you. I understood that you had been informed when those different buildings had been built?

A. Yes, I have been.

Q. For what period did you measure depreciation upon this particular apparatus?

A. In some of it, for a few years only, some three

years, and some perhaps eight or nine years; the depreciation varies from two to 15 per cent.

Q. But some of these have been standing from 1853?

A. No, it has all been rebuilt since 1853?

Mr. Mathewson: Not the apparatus; he said the buildings.

The Witness: That is, the buildings alone, yes.

Q. But your valuation for the buildings; did you figure depreciation there?

A. Yes. 21266

Q. On these retort houses?

A. Yes.

Q. How much depreciation did you figure?

A. 15 per cent.

Q. Why did you use 15 per cent depreciation? How did you arrive at that?

A. That is my judgment from the appearance of the building.

Q. That is, this building that has been constructed for fifty-three years you consider today is depreciated only 15 per cent?

A. Yes, for the reason that the building was kept in constant repair in order to serve its purpose. 21567

Q. Did you make any examination of the result of this plant to see whether it was operating efficiently?

A. I know that from my own personal knowledge.

Q. You know that; so you didn't have to investigate that?

A. No, sir.

Q. How many pounds of coke does it take to carbonize 100 pounds of coal in an efficient horizontal retort?

A. From 10-1/2 to 55 pounds of coke to 100 pounds of coal carbonized.

Q. You would make a rate of 10-1/2 to 55 pounds?

A. Yes.

Q. And if a plant was using 55 pounds of coke to carbonize 100 pounds of coal would you think that an efficient plant?

A. No, sir, I would not.

Q. Will you kindly pay attention to the questions and answer the questions that I ask you? I asked you how many pounds of coke it would take to car-
21269 bonize 100 pounds of coal in an efficient horizontal retort. That is the question. Now, what some man could produce is something that was not efficient is not the question.

A. About twenty-two pounds.

Q. You would differ then from Mr. Bradley, who said it would take from 10 to 15 pounds?

A. In a full depth generator furnace.

Q. What do you mean by that?

A. A furnace of considerable depth, with generating flues below the settings. Those benches are ordinary 4 by 5 benches.

Q. If you were installing a plant today, would you
21270 use these generator flues below the settings?

A. I would not.

Q. You would not instal this particular plant to produce efficient work today?

A. I would not, not so far as the furnace is concerned.

Q. That is what I mean. We are confining ourselves to this particular retort house. Now, how about the size of these retorts? Would a large size produce better results?

A. No; I should apply the same size retort in the same space, and the building controls the space.

Q. You say a 12 by 21 by 8 feet 6 inches is the size retort that you would use today if you were installing a gas plant?

A. Yes, in benches of sixes.

Q. Do they use benches of sixes now?

A. Yes.

Q. I notice that one coal gas stack of twenty-four benches, six retorts, the size is 15 by 26 by 9 inches?

A. Yes, sir.

Q. Can you produce better results with a retort that size than you can with a retort the size of the other 720? 21272

A. No.

Q. You would testify, then, as a gas engineer that the operation of a retort 12 by 21 by 8 feet 6 inches is as economical and produces as good results as a larger retort?

A. Yes.

Q. What is the shape of these retorts?

A. They are D-shaped.

Q. What is the size of the retorts that you installed in Astoria?

A. They are tapering retorts, as near as I can remember, about 14 by 22 inches on one end; I am not sure about that, and I think about 14 by 25 on 21273 the other end.

Q. By tapering retorts you mean a modification of the D-shaped?

A. No, it is tapering in length from one end to the other. It is a D-shaped retort.

Q. I am referring now to the horizontal and not to the inclined.

A. I did not instal any horizontal retorts in Astoria.

Q. The horizontal and inclined are two different things?

A. Yes; I did not instal any horizontal retorts at Astoria.

Q. Did you make any estimate on the horizontal retorts that they have over there?

A. I did not.

Q. What value do you place upon the benches?

A. $2,210 per bench.

By Mr. Mathewson:

Q. Does that refer to the four coal gas stacks?

A. Yes; thirty benches each.

By Mr. Page:

21275 Q. Did you estimate this value as you would if you were bidding to build those benches?

A. Absolutely the same way.

Q. That includes the masonry and the iron work and everything in regard to the bench, does it?

A. Except the foundations.

By Mr. Mathewson:

Q. Do those preliminary figures include the engineering expenses and the interest which you applied subsequently?

A. No, sir, it does not.

By Mr. Page:

Q. Were you building gas works in 1884?

21276 A. Yes, I think I was.

Q. Do you know whether it would cost as much or more or less in 1884 to have built these benches than it would today?

Mr. Mathewson: Objected to as not proper cross-examination. We called the witness here to prove the value of this property today, as an expert witness. We have asked nothing in reference to the cost in 1884.

Mr. Page: While you may have asked nothing of this particular witness, you put in evidence what it was valued at in 1884.

Mr. Mathewson: This witness is an expert witness, called upon that particular subject.

Mr. Page: Well, I think that goes to his competency and the weight of his testimony.

Mr. Mathewson: I do not agree with you.

The Master: I do not know that I quite follow you as far as that, Senator, but I think you are entitled, to ask him the question. It may be you will run the risk of making him your own witness on that point. I will allow it.

Mr. Mathewson: I would suggest that counsel make this witness his own in that connection, 21278
if the witness can answer.

Mr. Page: I will take the risk of that, as a proposition of law.

A. It would cost more in 1884.

Q. Now, have you figured a certain amount for depreciation on these benches?

A. Yes, sir.

Q. What is the amount?

A. Some of them, 15 per cent.

Q. On what?

A. On all of them 15 per cent.

Q. And upon what did you base that figure?

A. Principally upon the present condition of the 21279
arches and the ironwork.

Q. And that is the part that has to be renewed every three years?

A. No, sir; that is the part that has to be renewed probably every thirty years.

Q. You would expect the resetting of the retorts to be taken care of under repairs.

A. Yes, sir.

Q. It would come under that item?

A. Yes, sir.

Q. And you think that this plant standing as it

is today has depreciated to the extent of 15 per cent?

A. These particular benches, yes, sir.

Q. Does your value of $2,210 per bench include depreciation or do you take that off?

A. No, sir, that is taken off afterwards.

Q. What is the value today that you have for those?

A. I only have it in total. The total benches for the four stacks of 30 is $265,200, without depreciation, and $225,420 with depreciation taken off.

21281 Q. Have you the other 24 benches?

A. Yes, sir. Those benches cost $2,450, each making a total of $58,800, and the depreciated value is $49,980.

Q. You say they cost what?

A. $2,450 per bench.

Q. When?

A. As compared with the $2,210 I gave for the other benches.

Q. Well, that is the estimate you placed upon the cost and not the actual cost, is that it?

A. No, sir, that is the actual cost I got from various fire brick manufacturers around this part of the

21282 country, to which I added the cost of the ironwork.

Q. You don't know what it really cost the Consolidated Gas Company to install that stack of benches?

A. I don't, but I imagine they would pay more than I would.

Q. Do I understand you called for bids or asked for bids from various manufacturers, on which you based this estimate?

A. Yes, sir.

Q. Then you did not depend upon your experience of so many years as a gas engineer as to what it would cost, and as a man who constructed so many works?

A. I should do exactly the same if I had to build the works today, I should have to go to some fire brick manufacturers and get their prices, and buy their material for that part of the work and then add my prices for the ironwork.

Q. You referred to the foundation for benches. Just what is the foundation for the benches?

A. Is this 14th Street?

Q. I mean generally. Do you mean that portion that is down underground?

A. Yes, sir. It is that portion below the ground.

By Mr. Kirby: 21284

Q. Are there any foundations for other than the benches you have mentioned?

A. Yes, sir.

Q. How many?

A. There is one foundation for each stack.

Q. Are there any foundations upon which stacks have not as yet been erected?

A. No, sir.

Q. How many foundations does that make altogether?

A. Five.

Q. How many benches stand upon those foundations today? 21285

A. Well, on four of them there are thirty benches; and on one, twenty-four benches.

Q. So there are fifty-four benches?

A. Oh, no, there are four times thirty, which is one hundred and twenty and then twenty-four is one hundred and forty-four.

Q. One hundred and forty-four benches?

A. Yes, sir.

Q. What depreciation factors did you use in the foundation?

A. None.

Q. Simply estimated the cost of material and labor as it was given to you?

A. Well, it is very hard to give any information regarding foundations under benches, or in fact under anything.

Q. How did you get your information?

A. By general inquiry at the works, from which I learned that everything is put upon pile foundations. Of course, the piles have to be cut out at the water line to prevent them from rotting, and that gives me the length as to the foundation and on those facts I

21287 estimated the cost.

Q. Did you get that from the Consolidated Gas Company?

A. I got it from the superintendent that was there when it was built.

Q. And then did you give that information to various contractors and receive bids from them?

A. No, I made my own estimate.

Q. With regard to the stacks, however, you got your information from other contractors, did you not?

A. Yes, sir.

Q. Have you ever put down tiles of any kind?

21288 A. Yes.

Q. Have you estimated on work of that kind?

A. Yes, sir.

Q. What is the age of those foundations, do you know?

A. I think they were built in the fifties

Q. Would they cost more or less then to put down than now?

Mr. Mathewson: Same objection.

The Master: Same ruling.

Exception.

A. I don't think there would be much difference in the price for foundations.

Q. How many foundations were there there?

A. Five.

By Mr. Page:

Q. As part of the cost of the coal stacks, do you include the hydraulic main?

A. It is included in the benches.

Q. Then that estimate of yours covers everything in regard to the apparatus for making the gas and carrying it through the hydraulic main?

A. Yes, sir.

Q. What value did you set upon the stoking machines? If you have them separately, you might give 21290
them separately.

A. There are four; $16,000.

Q. That is $4,000 each?

A. $4,000 each, yes, sir. There is another one at $4,400. That is the one for the large stack.

Q. What about the DeBrower stoking machine?

A. $10,500.

Q. How old are these machines?

A. That I can't tell.

Q. What depreciation did you figure on them?

A. Five per cent.

Q. How did you arrive at that figure for depreciation? 21291

A. That is more depreciation than ought to apply because the machines have got to be kept up in a complete state of repair, always in order, to maintain their working capacity.

Q. And are they in a complete state of repair?

A. They are.

Q. What about the drawing machines? How much for the five Ross drawing machines?

A. $25,000.

Q. That is $5,000 apiece?

A. Yes.

Q. And the large—

A. $5,400.

Q. On these drawing machines, I want the age of the drawing machine and the amount of depreciation. Have you figured it?

A. Five per cent on the machine for the large stack and 2 per cent on the five machines for the other stack.

Q. Now did you arrive at those two items of depreciation?

A. My judgment of the conditions of the machines.

21293 As I said before I think the depreciation applied is more than it ought to be.

Q. That is, your judgment now as to the depreciation is different than what it was when you examined the machines and made up your figures?

A. No. You cannot exactly determine the value of depreciation and in order to be absolutely fair I took the outside figure which I thought would apply. I could have applied less and had the same opinion.

Q. Do you know how old those machines are? How long they have been in use?

A. No, I didn't ask about that because these machines have been kept in perfect condition continu-

21294 ously.

Q. They have been?

A. They have been, yes. Of course there is small wear and tear and repairing which at the present day I cannot just exactly establish. Five per cent would be an outside figure.

Q. Now, we will go to these turntables. For what are they used?

A. For transferring the stoking and drawing machines from one side of the house to the other.

Q. What is the value of those?

A. $630 each.

Q. Any depreciation on those?

A. Five per cent.

Q. Is that figured on all these items relating to the track?

A. Yes, sir.

Q. There are six lines of track running the length of the building and 20 feet outside?

A. Yes, sir.

Q. Seventy-pound rails, 6 by 6 cross-ties?

A. Yes, sir.

Q. These on 6 by 8 stringers?

A. Yes, sir. 21296

Q. What do you value that line of tracks at, so equipped?

A. Six lines, $5,050.

Q. Now, these coke tracks?

A. Four lines of coke tracks, $1,350.

Q. They only run the length of the retort house, is that right?

A. The length of the retort house and then the inclines outside of it which follow right after.

Q. How long is the entire length of the four lines of track—is it the length of the building plus thirty-two feet?

A. Yes, sir, in one instance, and I think forty in 21297
the other. That is, you will find two more down below forty feet.

Q. Two of them are thirty-two feet longer and two of them forty feet longer than the building?

A. Yes, sir.

Q. What do you mean by 3-1/2 inch rails multiplied by 35 pounds?

A. 3-1/2 inches, that is the height of the rails, by 35 pounds per yard.

Q. What is the value of these two coke dumping

inclines over thirty-two feet long and sixteen feet high?

A. $1,500.

Q. That includes, the gauge, benching arrangements and the 2-inch pipe, does it?

A. Everything complete.

Q. In connection with that you have two engines, have you, seven horse power engines?

A. Yes, sir.

Q. And that, together with the operating cable, is worth how much?

21299 A. $450.

Q. How much are the nine self-dumping coke machines worth?

A. $1,125.

Q. That is the entire nine?

A. Yes, sir.

Q. What value did you place upon the forty feet of coke dumping inclines, twenty feet high?

A. $2,070.

Q. And on the coke drums and hoisting arrangement and countershaft connected to the gas engine?

A. $380.

Q. And the 2-inch pipe clinching arrangement?

21300 A. $50.

Q. And upon all those I understand that you figure a net depreciation of 5 per cent?

A. Yes, sir.

Q. Do you know whether these five Ross drawing machines are the same that were in use in 1884?

A. I do not.

Q. The next thing in the process of gas manufacture would be to go to the exhauster house, wouldn't it?

A. Yes, sir.

Q. Now, the contents of this exhauster house were

21301

one Number 9 Roots exhauster, 24-inch connections, by-pass, exhauster direct connected to engine, 3,500,000 cubic feet capacity, including the engine. What value do you place on that?

A. $1,980.

Q. How much do you allow for depreciation?

A. None.

Q. Do you know how old that is?

A. No, sir.

Q. But you consider it just as good today as the day it was put in, no matter how long ago it was?

21302

A. It is absolutely perfect in every respect.

Q. Then there is another Number 6 Root exhauster?

A. Yes, sir.

Q. Direct connected to the engine, 20 inch connections with by-pass, capacity 2,000,000 cubic feet?

A. Yes, sir.

Q. How much did you value that at?

A. $1,078.

Q. There are two Huntoon governors?

A. $150.

Q. Those are attached to each of the exhausters or attached to the engine?

A. They are attached to the engine and governed by the gas.

21303

Q. What do you value the photometer, stand and bar at?

A. $65.

Q. What kind of a photometer is that?

A. Bar photometer.

Q. What is the length of the bar?

A. I did not measure that.

Q. Is it one or two candles?

A. It is arranged for any candles you like.

Q. But as against testing gas, against one candle or two candles?

A. You can test any candle power from nothing up to thirty candles and even higher.

Q. I know that. You test your light, though, on one end of your photometer as against a candle on the other, one or two candles, don't you, when you are using a bar photometer?

A. Yes, sir.

Q. I asked, is this arranged for one or two candles?

A. Well, you can apply either.

Q. This just refers to the machine itself, does it?

21305 A. The contents of the exhauster house?

Q. No, I say this one photometer, stand and bar, 865, refers to the machine itself?

A. Yes, sir, purely the apparatus.

Q. Now in the condenser house you have two No. 2 rectangular condensers, cast iron tubes, 44 feet by 15 feet by 6 feet 2 inches; 648 tubes, 4 inches in diameter 11 feet long, 30-inch connections. At what do you value those?

A. $29,106 for the two.

Q. And upon that you figure a depreciation of how much?

A. 15 per cent.

Q. Do you know the age of this apparatus?

21306 A. No, I do not.

Q. Would that cost more today than it would in 1884?

Mr. Mathewson: Same objection.

The Master: Same ruling.

Exception.

A. Yes, it might cost a little bit more.

Q. When?

A. Now.

Q. It would cost more today than then?

A. Slightly more, not very much.

Q. Do you know whether those are the same two condensers which were there in 1899?

A. I do not.

Q. Is that the type of condenser that is used to-day?

A. Yes, sir.

Q. Does the value which you have given include the valves and connections?

A. No.

Q. Have you valued the valves and connections separately?

A. Yes, sir. 21308

Q. What does this mean, by connections 30 inches?

A. That is only a memorandum to show the size of connections for the apparatus.

Q. Then the value that you gave of $29,106, would be the value of the two condensers alone?

A. Yes, sir.

Q. Now there are two purifying houses are there?

A. Yes, sir.

Q. Now the large purifier house, I find two sets of 8 purifying boxes 24 feet by 26 feet by 3 feet 2 inches, connections 20 inches?

A. Yes, sir.

Q. What do you value those at? 21309

A. Well the entire two sets together with the covers and the cranes and the supports for the boxes and center seals is $48,876 without any depreciation.

Q. You value those in their entirety?

A. Yes, sir.

Q. What is the capacity of that purifying house?

A. I have not figured that, but the capacity of the two houses combined is equal to the capacity of the plant.

Q. In other words, the capacity of the purifying house determines the capacity of the plant, doesn't it?

21310 Frederick J. Mayer, Cross.

A. In a measure, yes.

Q. Now the small purifying house?

A. One set of 4 boxes 16 feet by 25 feet by 3 feet 2 inch center seals, supports and two hydraulic cranes, $16,828.

Q. That includes the supports and pressure gauge, does it?

A. Yes—no, the pressure gauges are extra, $35 for that small house.

Q. Do you know the age of the apparatus in these two purifying houses?

21311 A. I do not.

Q. Upon what do you figure your 5 per cent depreciation?

A. Upon the present condition of the apparatus.

Q. That is, if it was regarded as against a new apparatus today you think there would have been a depreciation of 5 per cent?

A. Yes.

Q. In its present condition?

A. Yes.

Q. And you have not taken into consideration in figuring depreciation the actual age of the apparatus?

21312 A. No, I have not for the reason that age does not affect an apparatus of this kind except in one spot, and that is the sides of the covers which forms a very small portion of the entire purifying apparatus.

Q. Therefore, there is with the exception of the sides of the covers, which when they wear out were replaced as repairs—

A. But very little cost.

Q. But very little cost?

A. Yes, sir.

Q. There is practically no depreciation on a purifying plant?

A. No, sir.

Q. I find you have center seals in the purifying house and you also have a center seal house. To what use is this center seal house put?

A. In this instance the center seal is located outside of the building. The center seal is an apparatus which controls the flow in and out of the various purifiers. In some instances it is located under the purifier itself, but in this instance it is located outside the building in a small annex surrounding it.

Q. Is there a center seal within the purifying house and another one outside?

A. Just outside the purifying house in a small annex around it. 21314

Q. Is there one inside and one outside?

A. No, sir; only one to each purifier.

Q. Then the center seals you have testified to in each purifying house would be the center seals as spoken of in the center seal house?

A. Yes.

Q. And there would be no separate value for the center seals contained in that house?

A. No, the center seal is included in my valuation of the purifiers, but no connections.

Q. I understand that, your connections in all cases have been the valuation you gave at the end for yard connections and valves? 21315

A. Yes.

Q. And that applies to all the apparatus?

A. Yes.

Q. I notice in the yard two tower scrubbers, 20 inches in diameter by 84 feet 2 inches over all, capacity of each one million cubic feet per twenty-four hours?

A. Yes, sir.

Q. Eight sections of eight trays each, except lower, which has seven trays; connections 24 inches. Have

you valued that separately, or did you value it in connection with the tower?

A. I figured the two scrubbers as an entirety without any connections and valves the same as in the other cases.

Q. Will you give the valuations as you have placed them there upon the items?

A. Two scrubbers, $40,390; a 14 foot water tank on top of the scrubbers, $1,764; a circular stairway enclosed in a steel shell, $672, making a total of $42,826.

Q. What do you value the foundations at?

21417 A. $7,854.

Q. Have you figured anything for depreciation on this?

A. Eight per cent.

Q. Do you know anything about the age of those scrubbers?

A. No, sir.

Q. Do you know whether or not they are the same two tower scrubbers that they had in 1884?

A. Yes.

Q. Are they?

A. I believe they are.

Q. How did you figure the brick circular walls

21318 from top of concrete to ground level, 6 feet from ground to bottom of concrete?

A. In which item is that?

Q. In the foundation.

A. 800 cubic yards of excavation, 300 piles, 300 cubic yards of concrete and 52,000 bricks and the granite sills.

Q. What value did you take for those?

A. $7,854.

Q. I know, but—

A. The units?

Q. Yes.

A. Excavation $1.25 per cubic yard, piles $5.00

each; concrete $7.00 per cubic yard; bricks laid $25 a thousand.

Q. Is that based on bids you received?

A. No, sir, it is my own estimate.

Q. On the prices of today?

A. Yes, sir.

Q. Now, there is another scrubber, Isbell Porter, standard scrubber?

A. Yes.

Q. That is a rotary scrubber, is it not?

A. Yes, sir.

Q. 16 feet 6 inches long, 13 sections, end section 21320
7 feet 9 inches wide by 8 feet two inches high; disc 6 feet 9 inches diameter by 8, capacity 3,000,000 cubic feet for twenty-four hours, 30-inch connections 7 feet 7, 4 inches diameter?

A. That means 7 inches by 7 inches.

Q. 4 inches diameter, shaft, worm gear and wheel connections, wheel 48 inches diameter. What did you value that at?

A. $6,860.

Q. What did you allow for depreciation?

A. 2 per cent.

Q. How old was it?

A. 1892 I have it down here. 21321

Q. Two number 2 Cameron pumps; what are they worth?

A. $110.00.

Q. Each or for the two?

A. Both.

Q. How many station meters have they at these works?

A. 2 sixteen feet diameter.

Q. Will you give the value, please?

A. $13,540. They are 16 by 13 feet.

Mr. Burr: Is that for each or for both?

The Witness: For both.

Q. That is American meter make?

A. Yes, sir.

Q. And Parkinson drums?

A. Yes, sir.

Q. 20-inch connections?

A. Yes, sir.

Q. One No. 12 Westinghouse gas meter?

A. Yes, sir.

Q. What is that?

A. It answers the same purpose, but is differently constructed, $225.

21323 Q. Then the value of the other articles on the meter house?

A. Kings pressure gauge, $35. Iron grating, platform around meters $315.

Q. We have practically gone through the apparatus through which the gas itself passes, have we not, from the retort to the holder?

A. Yes.

Q. Now will you turn to your schedule of the boiler room?

A. Yes, sir.

Q. And give us the value of the boiler?

A. $2,109.

21324 Q. That is an 80 horse-power boiler?

A. Yes, sir, that is what it is rated.

Q. And built by T. F. Rowland?

A. Yes, sir.

Q. Do you know the age of that boiler?

A. No. That is in a thoroughly up-to-date condition.

Q. But if it was built by T. F. Rowland it was some years ago that it was built?

A. Yes, sir.

Q. How many should you say?

A. I did not inquire because the boiler was in perfect condition.

Q. How long ago did Rowland retire from business, do you know that?

A. No, I do not.

Q. Now will you give us the various items of the engine room. Was there anything else that entered into the boiler room?

A. No, there is one Clark steam and fire regulator at $25 a cast iron water tank 17 feet by 48 feet by 4 feet 6 inches deep over the entire boiler house, which forms the roof of the latter.

Q. How much is that worth?

A. $4,275. 21326

Q. Did you take any depreciation off from either of those items?

A. Five per cent on the boilers, none on the regulators, and two per cent on the cast iron tanks.

Q. Now, then, the engine room. You have first a forced draft fan for blowers, B. F. Sturtevant fan and engine, 3 foot fan and wheel, case 18 inches wide, direct connected with small vertical engine. What value did you place on that?

A. $250.

Q. Anything off for depreciation?

A. Two per cent.

Q. One simple engine, Novelty Iron Works, 50 horsepower? 21327

A. $3,000; twelve inches diameter, two-inch stroke. It is a special engine.

Q. Two small boiler feed pumps.

A. $100.

Q. Two jet photometers at $65 each

A. $130.

Q. Mackenzie exhaustor?

A. $924.

Q. Sink?

A. $25.

Q. Now, will you take the items on the various portions of the plant that have not been covered and give us the value, age, and depreciation as far as you know it, on every item of over a thousand dollars in value. Below that you need not.

A. Any item of over a thousand dollars?

Q. I mean, not to go back, but taking up here in the smith shop, machine shop and shed, etc.

A. I could give you the total items for that. Machine shop total contents?

Q. No, if there is nothing there over a thousand
21329 dollars just pass over it.

A. I have got one shed.

Q. The whole shed only amounts to $1,800. Everything that is in it?

A. Everything in it.

Q. I mean in the matter of items?

A. Oh, individual items.

Q. Yes, you have given, as I understand it, the total value of everything that is in these particular houses, the buildings, on your direct-examination.

A. Yes.

Mr. Kirby: He gave the total value of all.

The Witness: I gave the total value of all, not
21330 of each house.

Mr. Mathewson: Not dividing it into each separate house?

Mr. Kirby: Let it be where there is apparatus of over a thousand dollars, and give that.

Q. Yes, give us the total of each house, and where in that house there is apparatus of the value of a thousand dollars and over you can give us the total of that.

Mr. Mathewson: Would it not be a good thing to give that in the order in which they appear on the record; taking the office, store and then the boiler room, etc.?

The Witness: That is what I was going to do just now, start from the beginning.

The Master: That is the better way, then you will have it complete on the record.

A. Office building, contents $1,875.

Mr. Mathewson: Are you giving those items without depreciation or after the deduction of depreciation? Is the total you are giving the value without deduction of depreciation or after the depreciation is deducted?

Mr. Kirby: He had better give both.

Mr. Mathewson: I am merely asking him so 21332
that he can find out what you want. I do not care what he gives.

Q. Give the total with depreciation end then the total deducting depreciation?

A. With and without depreciation?

Q. Yes, both.

A. Contents of office building without depreciation, $1,875; with depreciation, $1,781. Storehouse, contents, $100; with depreciation, $100.

Mr. Page: We have had the boiler room and the engine room.

Mr. Mathewson: But he has not given the totals. 21333

A. (Continuing.) Machine shop, $700 without depreciation; $665 with depreciation.

Smith shop, $430 without; $408 with.

Grindstone, $395 without; $356 with.

Mr. Page: We do not want the value of the grindstone at $395. It is grindstone, circular saw lathe, turning tools, counter shaft, etc.

The Witness: Yes.

Mr. Mathewson: When you state your value, describe what it is.

A. (Continuing.) Shed, contents, $1,800; no depreciation.

21334 Frederick J. Mayer, Cross.

Large purifier house, $48,876, less depreciation, $46,432.

Small purifier house, $16,828 without depreciation; $15,987 with.

King's pressure gauge, $35, no depreciation.

Meter house, we had that before.

Centre seal house, four King's pressure gauges, $140; no depreciation.

Pressure gauges, $140; no depreciation.

Checkered cast iron runway around seals, $258; no depreciation.

21335 Mr. Burr: You have left out the Smith & Farmer's duplex dry centre seals, 20-inch connections.

The Witness: They are included in the price of 24 feet by 26 feet purifier house.

Boiler house, one locomotive boiler and tools, 35 horse-power 5 inch diameter shell, 14 feet 7 inches long, sixty 3-inch tubes, without depreciation, $1,918; with depreciation, $1,726.

By Mr. Kirby:

Q. Do you know the age of that boiler?

A. I have not got it down here. I had it when I made up my schedule, but I did not put them all in.

21336 Valve house, contents, $335, no depreciation.

Retort house, four coal gas stacks, 30 benches, etc., without depreciation, $265,200, with depreciation $225,420.

One coal gas stack, 24 benches, etc., without depreciation, $58,800, with depreciation, $49,980.

Four Bronder stoking machines without depreciation, $16,000; with depreciation, $15,200.

One Bronder stoking machine, $4,400, with depreciation, $4,180.

One De Brower stoking machine, without depreciation, $10,500; with depreciation, $9,975.

21337

Five Ross drawing machines without, $25,000, with $24,500.

One Ross drawing machine without, $5,400, with $5,130.

Three extra engines for retort house, $705 for the three, no depreciation.

Six turntables, fourteen feet diameter, $3,780.

Six line track, etc., $5,050, no depreciation.

Four line coke track, etc., $1,350, no depreciation.

Two coke dumping inclines, $1,500.

Two 7 horse-power single cylinder engines, $450.

Nine self-dumping coke cars, $1,125.

21338

Two coke dumping inclines, $2,070.

Two drums and hoisting arrangements, etc., $830.

Two-inch pipe quenching arrangement, $50.

On all items from six turntables to 2-inch pipes inclusive, 5 per cent depreciation, making a total for such items, without depreciation, $15,755, and with depreciation, $14,967.

Retort house annex, contents, $16,370, without depreciation, $15,880, with depreciation.

Coke passage, $8,075 without, $8,059 with.

Gas engine house, total, $3,666 without, $3,597 with.

Coal hopper, contents, $3,315 without, $3,249 with.

21339

By Mr. Mathewson:

Q. That refers to each of the buildings where you simply mentioned the building without defining the contents?

A. Yes, sir.

Coal shed, $6,250 without, $6,064 with.

By Mr. Kirby:

Q. That includes the item under addenda to the coal shed, does it not?

A. Yes, No. 3.

Rigger house, $565, no depreciation.

Coal and coke storage, 30,000 tons of coal not included in valuation.

Coal handling apparatus, cable buckets, etc., included in coke passage.

Boiler and engine house:

One 55 horse power vertical boiler, $734 without depreciation, $713 with.

One 50 horse power two-cylinder, 12 by 20, $1,000 without depreciation, $970 with.

One 25-foot sheet iron stack, $75 without, $73 with.

21341 One small feed water pump, $55 without, $54 with.

Boiler house and well, $350 without, $341 with.

By Mr. Mathewson:

Q. Did you add tools to that boiler house?

A. One vertical boiler.

Q. And tools for the boiler? What does that mean?

A. That is tubes, not tools. Two 66-inch diameter—

Q. Thirteen horse power boiler with tools?

A. Thirteen horse power boiler and tools for boiler.

Q. That is what I said.

A. Yes. $350 without, $341 with.

Well house, $1,042, no depreciation.

21342 By Mr. Mathewson:

Q. Including addendum, item No. 4?

A. Yes, sir, No. 4.

Boiler house, one boiler 4 foot diameter, 10 feet 3 inches long, without depreciation, $607, less depreciation, $589.

Eighteen-inch sheet iron stack, $38, without depreciation, $37 with depreciation.

One clock, $15.

Pressure gauge, $8.

Valve house, $80, no depreciation.

New York Safety, 14 by 60, engine, $1,980, no depreciation.

One Mackenzie exhauster, $3,050, no depreciation.

One King's pressure gauge, $35, no depreciation.

Thirty-inch valve stands, $525, no depreciation.

Photometer, $650, no depreciation.

Ten one-half Root exhauster, additional, $1,600, no depreciation.

Boiler house, two 50 horse power corrugated flue boilers, $2,860, without depreciation, $2,720 with depreciation.

Two stacks, $234, no depreciation.

Yard total, $2,804, without depreciation, $2,636 with depreciation. 21344

By Mr. Kirby:

Q. In the yard there is an ammonia tank which you value at $1,008, is there not?

A. Yes, sir.

Q. Is there any depreciation on that item?

A. Six per cent.

Coke office, $185, no depreciation.

Boiler house, total, $2,029 without depreciation, $1,970 with depreciation.

Q. This includes the items in addenda Item 6, does it not?

A. I does.

In the boiler house is one 50 horse power engine valued at $1,000, 2 per cent depreciation. 21345

Q. Giving a depreciated value at $980?

A. That is right.

Q. Clay mill and storage; $480 without depreciation; $460 with depreciation.

Storage sheds: 78 tons fire clay omitted from valuation as per item No. 7 in addenda.

By Mr. Page:

Q. Was that included in the total valuation that you gave?

A. No, sir; taken out.

Stable and yard, $455; no depreciation.

Pump house, $240 without depreciation; $235 with depreciation.

Storage shed, scrap iron, $600.

Q. Why do you include the 50 tons of scrap iron?

A. That should come out.

Q. Your total figures ought to be reduced by $600.

A. By $600, yes, sir.

Storage shed, $415; no depreciation.

Weight office, $3,051, no depreciation. I think that covers it all.

21347 Q. Now you have how many holders in that plant at 14th Street?

A. There are 6 holders of 345,500 cubic feet capacity each, and 2 holders of 250,000 cubic feet capacity each.

Q. Take the 6 holders. What do you value the tanks at, including guide plates and in lots?

A. $219,039.

Q. Do you know when the tanks were constructed and erected?

A. No, I do not.

Q. Is that given with or without depreciation?

A. There is no depreciation.

21348 Q. Did you include in that value the retaining walls?

A. Yes, sir.

Q. And what did you value the holders and frames of the six gas holders at?

A. $178,885.

Q. Is there any depreciation there?

A. 15 per cent, making a total value of $152,052.

Q. Can you state whether or not those were the holders that were on this property in 1884?

A. I cannot.

Q. Of the two additional holders that you have

given of the smaller capacity, the two at 250,000 cubic feet capacity each, will you give us the valuation for the tank and for the holder and for the frames?

A. The value of the tank is $57,383, no depreciation. The value of the holders is $52,091, less 10 per cent, making a value of $46,082.

Q. Those two holders are separated from the others, aren't they?

A. Yes, sir.

Q. That is the six are on the block bounded by 14th and 15th Streets, Avenues B and C? 21350

A. Yes, sir.

Q. And the two are on the block bounded by 17th and 18th Streets and Avenues B and C?

A. Yes, sir.

Q. Do you know whether the capacity of those plants has been increased since 1884?

A. No, I do not.

Q. Now, all of these holders are in brick tanks, aren't they?

A. Yes, sir.

Q. How did you arrive at the value of the brick walls around the property? I don't mean the holders, I mean the walls around the yard? 21351

A. The tank itself?

Q. No, no. You said there were some brick walls that were built around the yard?

A. Yes.

Q. That is what I refer to.

A. They were figured in detail; so many bricks.

Q. How deep below the surface does the foundation of the wall go?

A. Four feet.

Q. Is this foundation of brick?

A. Are you referring to the tank wall?

Q. No, the wall around the yard, what is practically the fence.

Mr. Mathewson: Is this the wall around the holder inclosure?

Mr. Page: No, whatever it is. He has got several brick walls.

Mr. Mathewson: Yes, I know, but I am trying to find out which—

Mr. Page: It is on page 1352.

A. That is the first item of holder value.

Q. How did you arrive at the value?

21353 A. It was estimated in detail: 736,000 bricks, 536 cubic feet of bluestone and 1,000 cubic yards of excavation.

Q. The excavation was for four feet in depth?

A. Foundation, yes, sir.

Q. And the twelve feet in height included foundation, did it?

A. It is above the grade, the four feet is below grade.

Q. Sixteen feet altogether?

A. Yes, sir; that is the foundation.

Q. How wide is that wall?

A. Twelve inches thick.

21354 Q. You said there were 20-inch pilasters. What is the distance between pilasters?

A. I don't know what the distance is, but there are twenty-five pilasters altogether.

Q. Does that mean twenty inches in width?

A. Twenty inches in width and four inches projection from the surface of the brick wall.

By Mr. Mathewson:

Q. On each side of the wall, isn't it?

A. On one side.

By Mr. Page:

Q. Then the wall under pilaster would be sixteen inches wide?

A. That is right.

Q. And would extend twenty inches?

A. Yes, sir, twenty inches in width.

Q. All of these gas holders that you have testified to are brick tanks?

A. Yes, sir.

Q. If you were building them today would you build them of brick or steel tanks?

A. That would depend upon the character of the 21356
ground.

Q. Well, at this particular place, I mean?

A. At this particular place I would only build them of brick.

Q. Which is the cheaper construction, brick or steel tank?

A. In this instance?

Q. I am referring to the original construction, whether it costs more to build a brick tank or a steel tank?

A. Well, a steel tank of the same dimensions is cheaper than a brick tank.

Q. Now, we will turn to the 42nd Street station. 21357
his is also a coal gas plant, is it not?

A. Yes, sir.

Q. And of what capacity?

A. 4,500,000 cubic feet in twenty-four hours.

Q. On your direct-examination you gave the dimensions of the various buildings and then gave the total valuation of all the buildings, but you did not give the value you place upon each building.

A. No.

Q. Have you them separated?

A. Yes.

Q. Will you give that? I don't mean to segregate them, but the total for each building with and without depreciation.

A. Valve house and vault in the yard, $1,862; no depreciation.

Q. Do you know when that was built?

A. 1863.

The Witness: Do you want all these items?

Q. No. You need not separate the items.

A. Vault, $2,499; no depreciation. Meter house, $958 without depreciation; $910 with depreciation.

21359 Q. When was that built?

A. 1863. Purifying house $63,439 without depreciation; $57,076 with depreciation. The first figure should be $72,250; without depreciation, and $65,006 with depreciation.

Q. What is the item of $8,811 which you have added?

A. That is under addenda item No. 2. That is for additional cost of the vault. It is explained in the addenda, item No. 2.

Q. Was that a part of the original construction in 1863?

A. Yes, sir, it was omitted from the first item by

21360 not allowing anything for planking, pumping and sheet piling. Extension to main building, same house, purifier house, $3,877 without depreciation; $3,490 with depreciation.

Q. Do you know when the extension was built?

A. I presume it was built at the same time that the main house was built.

Q. That was in 1863?

A. Yes, sir. Engine and meter house $17,476 without depreciation; $16,639 with depreciation. Vaults, $7,125; no depreciation. Toilet, $90 without depreciation; $81 with depreciation. Retort house,

$132,997 without depreciation; $126,348 with depreciation.

Q. What is the additional item which you have added?

A. Additional cost for bench foundations and the same items, planking, capping, pumping and sheet piling. The next is condenser and scrubber house, $13,520 without depreciation; $12,844 with depreciation.

Q. That was also built in 1863?

A. 1863, yes, sir. Retort house—Nos. 2 and 3 $82,774 without depreciation and $78,636 with depreciation. 21362 Vault for the same building, $12,834, no depreciation. Exhauster engine and scrubber house, $29,643 without depreciation; $28,161 with depreciation. Retort house No. 4 $11,216 without depreciation; $10,656 with depreciation.

Q. That building was built in 1863?

A. In 1863.

Q. And a depreciation of five per cent?

A. Five per cent. Vault south of No. 1 retort house and north of Nos. 2 and 3 retort houses, $45,229 without depreciation; with depreciation $45,229, no depreciation, in other words.

Q. No depreciation on that? 21363

A. No depreciation on that, no.

Q. Which vault is this?

A. This is the vault south of No. 1 retort house and north of Nos. 2 and 3 vault between purifier house and exhauster engine and scrubber house, $4,633. No depreciation. Shed, $1,008 without depreciation and $807 with depreciation. Coal shed No. 1 without depreciation, $54,055. No depreciation.

Q. This shed was built when?

A. 1887.

Q. All the buildings which you have given up to this time were built in 1863, is that right?

A. I believe they were, up to this time, yes, sir.

Q. Proceed.

A. One coal shed with runway overhead, $1,000. No depreciation.

Q. That was built in 1887?

A. 1887, yes, sir. No. 2 coal shed, $71,531. No depreciation on that.

Q. And built in 1887?

A. And built in 1887. Carpenter shop, $156. No
21365 depreciation.

Q. That was built in 1887?

A. Yes, sir. Brick fence on 11th Avenue, $4,643. No depreciation.

Q. That was built in 1863?

A. 1863. Brick fence on 42nd Street, $5,267. No depreciation.

Q. Built in 1863?

A. In 1863. Main building, stable and wagon shed, $24,579, without depreciation, $23,350 with depreciation. East extension of above shed, $1,680 without depreciation $1,596 with depreciation. Another extension to above, $2,136 without depreciation, $2,029
21366 with depreciation.

Q. Those were all built in 1863?

A. All built in 1863. Building used for storing of hay, straw, etc., $3,715 without depreciation, $3,530 with depreciation. Harness house, $1,965 without depreciation, $1,867 with depreciation. Coke storage, weigh office, $492 without depreciation, $467 with depreciation.

Q. Both of those buildings last mentioned were built in 1863?

A. Yes, 1863. Iron bridge crossing Twelfth Avenue, $3,050, no depreciation.

Q. When was that built?

A. 1886.

Q. Proceed.

A. Now, I have to skip over to the addenda. These are buildings which are not contained in the original list.

Q. They have been given on your direct testimony, haven't they?

A. Yes, they are all shown here in the addenda.

By Mr. Kirby:

Q. Frame building for deordorizing purposes?

A. Yes, sir, frame building for deodorizing pur- 21368
poses, $890 without depreciation, $801 with depreciation.

Q. Have you got when that building was put up?

A. No, I have not got that. Cribbing and earth filling for eight oil tanks, eight feet diameter by 25 feet long, $2,438, no depreciation. Frame pump house on pier, $320 without depreciation, $288 with depreciation. Timber ash dump, $2,500, no depreciation. Timber retaining fence around coal storage, $2,800 without depreciation, $2,520 with depreciation.

Q. That is the 700-foot fence you mentioned yesterday?

A. Yes, sir, 700-foot fence. That is in the addenda. 21369
That is all for the buildings.

Q. You failed yesterday to give the dimensions of the vault. Can you give us that now?

A. That is a very long description for each of the vaults. There is one vault under the octagonal brick building. The vault is 17 feet by 18 feet with 12-inch brick walls and foundation of piles, piles cut off 12 feet below grade line. Do you want a complete description of it?

Q. Yes.

A. Roof of vault, iron beams with brick arches.

Vault eight feet high inside. Floors concrete 12 inches thick. Three air shafts from vault four by five by five feet high. One iron stairway from vault to yard. You only want the description referring to the vaults themselves, do you?

Q. Yes.

A. That is all for the one vault.

Q. That vault you have appraised at how much?

A. $2,499. Vault for engine and meter house, 20 by 38 by 9 feet, 16-inch walls on pile foundation, areaway on east side of vault, 4 feet wide, 10 feet high,
21371 16-inch brick walls, coped with bluestone, and covered with wrought-iron grating.

Mr. Mathewson: Are those vaults?

The Witness: Vaults.

Mr. Kirby: He has valued the vaults and areaway together.

Q. At how much?

A. Well, there are some more vaults come into that additional.

Q. Add them altogether.

A. No, that is all. $7,125. Vault on south side of No. 2 and No. 3 retort house, 150 feet by 15 feet; vault, roof water tight, brick walls 20 inches thick on
21372 pile foundation, floor flagged, 11 feet 6 inches below sidewalk, roof 12-inch I-beams, 6 feet centre to centre, 16 feet long, filled with brick and concrete arches, $12,834. Vault south of No. 1 retort house and north of No. 2 and No. 3 retort house, floor flagged, roof formed of iron beams with brick and concrete arches, covered with flagstones, 3 inches thick, perfectly water-tight, five vault lights 3 feet by 5 feet, with cast-iron frames and glass, adjustable hatches and wrought-iron pipe railing.

Q. This vault you valued at how much?

A. $45,229. Vault between retort house and ex-

hauster engine and scrubber house, 137 feet by 9 feet; same heights as vault on south and north side of Nos. 1 and 2 and 3 retort houses; side walls are walls of adjoining buildings; no partition walls; no adjustable hatches, $4,633. I believe that is all for the vaults.

By Mr. Page:

Q. That completes the buildings?

A. That completes the buildings and the vaults.

Q. In estimating the values of the buildings which you have given did you resort to the estimate as in ascertaining the value of the 14th Street buildings?

A. I did, sir. 21374

Q. That is, you took those buildings of the Brooklyn Company that you spoke of as the standard?

A. In comparison, yes, sir.

Q. And when you had completed your estimate of the value of the buildings, you added 10 per cent interest to the value, did you?

A. Yes, sir.

Q. And what was that for?

A. For the same item as in the instance of the 14th Street plant, for general engineering, draining, sewering, etc.

Q. What do you mean by general engineering?

A. Engineering for the entire plant as such, but not 21375
for the individual buildings, the laying out of the entire plant.

Q. Is there any established rates that engineers charge for such services in laying out a plant and supervising its construction?

A. I do not know that there is; I do not know that there is any established rate. That item was explained yesterday, what it contained. It contained all sorts of articles that I did not find in my examination, water in holder tanks, general engineering, the drawings, gradings, curbings, sewering and other items of that

kind. I forget just what that was yesterday. I gave it all in detail.

Q. If you were building a plant and had gotten in your estimates or bids from all the different contractors, you would then add this item of 10 per cent?

A. I would, sir.

Q. Raise the amount of your bid to 10 per cent?

A. Yes, sir.

Q. To cover such matters?

A. Yes.

Q. Is that for your services as engineer or is it to
21377 cover such contingencies as might arise in the course of construction?

A. Both; it would cover everything.

Q. While you were chief engineer of Bartlett, Hayward & Company, did you add to your bids that you put in this item of 10 per cent?

A. We did not make any contract for the entire plant in Astoria. This refers to an entire plant.

Q. I did not say Astoria particularly. I say, while you were preparing your bids, while you were connected with the firm of Bartlett, Hayward & Company, did you add this item of 10 per cent?

A. Sometimes 10 per cent, sometimes 15, depend-
21378 ing on the kind and character of the plant.

Q. And sometimes nothing?

A. No, never nothing.

Q. I understand that you estimated on this plant, as far as the buildings are concerned, the price that it would cost to build the buildings today?

A. Yes.

Q. And the depreciation which you have figured in each instance is the depreciation that the buildings in their present condition show, from a building recently completed?

A. Yes, sir.

Q. You did not figure what it would cost to put up these buildings in 1863?

A. I did not.

Q. And then figure how much they had depreciated from that cost?

A. I did not.

Q. Now, you added also another item of five per cent. What was that?

A. I think I explained that yesterday, that it is interest charges.

Q. Well, explain it again if you did.

A. It is for interest charges, for the construction 21380
of the plant; it takes about two years—not less than two years—to construct a plant of this size and we add interest on the total expenditures for one year.

Q. And you believe, in the cost of construction, that interest on the money invested should be added as a part of the cost of construction?

A. I do.

Q. And should not be afterwards carried into the price or cost of manufacturing gas?

Mr. Mathewson: Is not that a conclusion which the witness has not testified respecting?

Mr. Page: I will withdraw that.

Q. Would that five per cent be included in your es- 21381
timate, or would it afterwards be charged up by the company against the cost of the plant?

A. No, by the company.

Q. And it would not be included in the estimate which you made?

A. No, sir.

Q. Did you also add the ten per cent and the five per cent to the cost of the apparatus, as well as to the cost of the buildings?

A. Yes, sir.

At 5:20 o'clock P. M. adjourned to tomorrow, Thursday, August 30th, at 11 o'clock A. M.

21382 Frederick J. Mayer, Cross.

New York, Thursday, August 30, 1906, 11 A. M.

Met pursuant to adjournment.

PRESENT: THE MASTER, MR. MATHEWSON, MR. MEADE, MR. PAGE, MR. BURR, MR. KIRBY.

CROSS-EXAMINATION BY MR. PAGE (CONTINUED):

Q. I understand you desire to make some corrections in your testimony?

A. Yes, with regard to the 14th Street plant.

21383 Q. Is it in the building or the apparatus?

A. In the apparatus. In transferring the figures from my original notes some decimal points were changed round in some instances.

Q. In the direct or cross-examination?

A. In the cross-examination.

By Mr. Mathewson:

Q. In the direct also?

A. Yes, in the totals, too.

Q. I did not ask as to individual items. Correction in those items would change the totals, of course.

A. Yes, I have them here; page 1431, in the instance of the brick tanks, for the two 250,000 cubic

21384 feet holders I gave the price yesterday as $573,838. It should have been $57,383. That is just misplacing a decimal point in transferring the figures. In the instance of apparatus contained in the engine room I gave the price for a jet photometer $650. It should be $65.00; and there should be also one additional photometer instead of two, making two items of $65 instead of one.

Q. Do you mean two items of $65 each, or two together of $65?

A. Two jet photometers at $65.

Q. That is $130 instead of $650?

A. Yes, sir."

The Master: That is on page 1424.

"A. In the instance of contents of meter house I gave the price of two 16 by 13 meters as $1,600. This value should be $13,540."

The Master: That would seem to be at the bottom of page 1422. Two 16-feet diameter station meters. Is that the item?

The Witness: Yes. $13,540 for the two.

By Mr. Page:

Q. Here is another photometer here?

A. That is a bar photometer. I was working up to the minute I began to give my testimony, and it 21386
is possible that there may be some other figures that I have not discovered.

By Mr. Mathewson:

Q. When you come to make a more careful comparison?

A. Yes, sir.

By Mr. Page:

Q. Turn to page 1429; there is another photometer there, right after where you give the item addendum No. 4. That price is right. That is a bar photometer.

By Mr. Mathewson:

Q. That first item on page 1431, about the middle 21387
of the page, where it should be $57,383 instead of $573,838, that was the value of the two together, was it not?

A. Yes, two tanks.

By Mr. Page:

Q. Is that all?

A. Yes. Do you want the corresponding corrections for the totals?

Mr. Mathewson: Yes, give the totals.

A. Total value of the 14th Street, plant, including the above corrections, is $2,549,545, instead of $3,132,860.

Q. And the total valuation of all the plants will be correspondingly changed, of course?

A. I can give it to you if you want it.

Q. Yes, we might as well have it.

A. That would be without the 18th Street works, $15,532,489 instead of $16,098,893.

Q. And the total, including the 18th Street works?

A. $17,040,524.

Q. In place of what?

A. In place of $17,606,928.

Q. In the description of apparatus which you have
21389 furnished us you begin with the valve house?

A. Yes, sir.

Q. Will you state what apparatus is contained in the valve house?

A. One 6-foot diameter by 2 foot 6 high governor; one cast iron manifold in conjunction with governor; in reality a combined governor and center valve; five floor stands or standards for valves.

Q. Do you value that as an entirety or in separate items?

A. Why, it is figured in detail, but the valuation is not entirely based on so many cents per pound as to what they weigh. This whole apparatus is in connec-
21390 tion with each other. The combination forms really one apparatus.

Q. You take the weight then of an apparatus and multiply it by some figure?

A. By a unit price per pound.

Q. What is that unit price?

A. In this instance it is 5.6 cents.

Q. What do you get as the total cost at that rate?

A. $1,497.

Q. And that is without depreciation?

A. Yes, sir.

Q. What depreciation do you figure?

A. $1,198, equal to twenty per cent. deduction.

21391

Q. In estimating the value of the machine by weight you do not take into consideration its physical condition or efficiency, do you? In other words, a machine that is broken down and is all out of condition, will weigh just as much as a machine that is in thorough repair and operating at a high degree of efficiency, wouldn't it?

A. Yes, sir.

Q. On the market do you buy gas machinery by weight per pound?

A. Well, I have manufactured gas machinery and based my estimate on the pound price. All estimates are made that way.

21392

Q. If you were going out into the market to buy a governor would you ask them at how much they would sell a governor per pound?

A. No, sir.

Q. There is a market price for these things, isn't there?

A. Yes, sir.

Q. And that market price is not arrived at by multiplying the weight by a price per pound?

A. No, sir; that is only in the instance of the governor; that does not refer to other things.

Q. No, we are talking about governors now. This machinery was placed in this valve house in 1863, wasn't it?

21393

A. 1863, yes, sir.

Q. And has probably been in operation ever since?

A. Yes, sir.

Q. The price that you have given, $1,198, that would be for a governor bought to-day, wouldn't it?

A. No, sir; that same governor bought to-day would be $1,497.

Q. Well, would $1,497 be the price you would pay for that same governor new with the connections and fittings that you have specified here?

A. Yes, sir. That would be an exceedingly low price for it.

Q. Whose manufacture is this particular governor, do you know?

A. Morris & Tasker.

Q. Are they still in business?

A. No, sir.

Q. How long since they went out of business?

A. Oh, I think all of 12 or 15 years.

Q. Now we will pass on the purifier house. Will you state how many purifier boxes there are and give
21395 a description of them?

A. There are 8 boxes 20 feet by 22 feet by 3 feet deep inside and 24 inches deep by 4 inches wide cups; two layers of trays; 8 wrought iron covers and the necessary supports.

Q. Did you value those separately or did you value them with the covers?

A. With the covers and supports complete.

Q. Will you state what the size of the covers is?

A. 20 feet by 22 feet. Well, they are for those boxes—they are about 20 feet 3 inches by 22 feet 3 inches by 3 feet 6 inches deep on the sides.

Q. And the method of estimating the purifier appa-
21396 ratus, did you arrive at that by taking the weight?

A. I did.

Q. And multiplying it by 5.6 cents, the same unit as you used before?

A. Yes, sir.

Q. And proceeding in that manner what was your result?

A. $37,840 without depreciation and $35,948 with depreciation.

Q. Do you know when this apparatus was put into the purifier house?

A. 1863.

Q. And you figure that in that length of time it has depreciated 5 per cent.

A. Yes, sir. There is practically no depreciation except on the sides of the covers. The purifiers are as good to-day as ever.

Q. As you explained in regard to the 14th Street property, that was taken care of by repairs?

A. Yes, sir.

Q. Is the purifying apparatus sold by weight?

A. It costs by weight.

Q. I am speaking about when a man buys it. Of course any manufacturer makes his estimate on the 21398
weight very largely.

A. It is sold by a lump sum; a contract price.

Q. And you have not stated the price here for purifying apparatus that you have obtained by asking estimates from various manufacturers of that apparatus?

A. I have not. It is my own estimate.

Q. It is your own estimate, based on that rate per pound?

A. Yes, sir. Estimated in detail, each factor in detail to make up that 5.6 cents per pound.

Q. And the apparatus was not weighed by you, but the weights were estimated? 21399

A. The weights were estimated.

Q. So to arrive at the value of this particular plant you estimated the weight, estimated the unit, and multiplied the two together to produce a result?

A. Yes, sir.

Q. Now proceed with the next item?

A. Four additional purifiers, 16 feet by 27 feet by 3 feet 6 inches deep, with 24 inch by 4 inch cups, together with supports and covers and trays.

Q. And did you also take into consideration, in giving an estimate, the covers?

A. Yes, sir; I mentioned the covers.

21400 Q. Oh, did you? Excuse me. And in estimating the weight of that apparatus and multiplying it by 5.6 cents as before, what result did you produce?

A. $18,576 without depreciation, and $17,648 with depreciation.

Q. Do you know whether these purifiers have been in use since 1868 or not?

A. I do not.

Q. You do not know how long those have been in use?

A. No, sir; I do not.

21401 Q. What else have you?

A. Four small purifiers, 7 feet 6 inches by 10 feet 6 inches by 3 feet deep, with covers and supports, valused at $3,308 without depreciation, and $3,142 with depreciation.

Q. The result being arrived at in the same way that you stated before?

A. The same method, yes, sir.

Q. What is the capacity of this purifying apparatus?

A. The total of all the purifiers is equal to the capacity of the plant.

Q. How do you arrive at that?

A. In proportion to the number of benches and
21402 other apparatus in the entire plant making up the total capacity of the plant. If such was not the case they could not purify the gas. We know the gas is purified.

Q. Is there more of a purifying capacity here than the total capacity of the plant?

A. That may be the case; I have not figured it in detail. There certainly is not less than the capacity of the plant.

Q. You have some small items, haven't you?

A. Not in the purifying house. Oh, yes, there in another purifying house:

Two hydraulic floor carriages, that is for the 20 foot by 22 foot purifiers, $1,400.

One hand power floor carriage for the 16 by 27 purifiers, $523.

One hand power floor carriage for the 7 foot 6 inch by 10 foot 6 inch boxes, $280.

Oxide barrows, tools, etc., not valued, included in the final 10 per cent. All these prices I am giving are always without the 10 per cent, and 5 per cent, interest charges, of course. Those would have to be added in each instance given to the totals.

Q. I understand; you do that when you get through?

A. Yes, sir.

Q. And those hand barrows and hydraulic floor 21404
carriages were all estimated in the same way that the balance of the purifying apparatus was?

A. Yes, sir.

Q. The same unit was used?

A. Yes, sir.

Q. Now, proceed.

A. These units are based upon the actual cost figures, of which I have intimate knowledge.

Q. Proceed.

A. The next is the engine and meter house. The first is item No. 13 of the addenda in this house:

One 48 by 48 MacKenzie exhauster, with 12 inch by 24 inch horizontal engines; one Huntoon governor, 21405
complete, $3,400 without depreciation; $3,230 with depreciation.

Q. Do you know when that engine was put in the property?

A. No, sir, I do not; but it is in a thoroughly good condition. It is working every day.

Q. How did you arrive at this value that you gave? Do you weigh the engine and multiply it by some figure?

A. No, sir, I took the prices of the engines and the exhausters from the manufacturers.

Q. Is that the list price that you put in?

A. That is the price delivered and erected.

Q. Proceed.

A. One 13 foot 6 inch cast iron station meter, valued, without depreciation, at $5,800; one 11 foot 6 inch meter valued at $4,800, and one 10 foot 6 inch meter valued at $3,800. The total sum for the three meters, including depreciation, is $10,875.

By Mr. Mathewson:

Q. Is that total right

A. With depreciation for the three meters.

21407 Q. How much depreciation?

A. 25 per cent. In this instance it is due to the old style drums contained in these meters, instead of the new style.

By Mr. Page:

Q. These meters were put in at what time?

A. 1882 and 1888.

Q. What is the depreciation item for? Is it for a reduced efficiency of the meter?

A. On account of the old style drums; old drums instead of new drums that are being built now. I think it is a question of a very few years when these drums will have to be replaced with new drums.

21408 Q. Therefore, in allowing the value here you allowed for the replacing of new drums?

A. Yes, sir, twenty-five per cent. of the total cost.

Q. Now, proceed with the contents of the engine meter house.

A. There is one additional meter in another small meter house located alongside of the holders which is not included in the contents of this meter house and I have added under the addenda, item No. 13-1/2, an 8 foot by 8 foot station meter; $3,000 without depreciation; $2,700 with depreciation. That is item No. 13-1/2.

Q. Now, we come to the retort house.

A. 60 benches of 6's and three stacks; total value without depreciation $180,000, with depreciation $171,000. To this must be added the item in addenda, No. 15, on account of the deep furnace and the new settings there must be added to each bench $500, I think it is.

Mr. Mathewson: Yes, item No. 15.

The Witness (continuing): $500 for each bench.

Q. That would make then for the sixty benches, thirty thousand dollars? 21410

A. Yes, sir, additional thirty thousand dollars for the sixty benches without depreciation, and $28,500 with depreciation.

Q. That makes the value of the benches without depreciation $210,000?

A. Yes, sir.

Q. Without depreciation?

A. Yes, sir.

Q. And with depreciation how much?

A. $199,500.

Q. The size of these retorts was given as 14 inches by 24?

A. Yes, sir. 21411

Q. And the setting 9 feet deep what does that mean?

A. That is the depth of the regenerator furnace from the floor line.

Q. What is the length of the retort?

A. That means the length of the retorts. Nine feet deep means the length inside the arch.

Q. What do you mean by regenerative type, 60 benches of 6's and 6 blocks of regenerative type?

A. That refers to the style of furnace applied under the benches, which in this instance is of great depth, I think it is 9 or 10 feet and contains recuperative flues

to heat the secondary air required for the combustion in the benches.

Q. That increases, doesn't it, the efficiency of the retort very much?

A. Yes, sir.

Q. And by having the recuperative flues—

A. I beg pardon, not the efficiency of the retort, but the fuel consumption.

Q. Well, what I mean by that, for a less amount of fuel you can carbonize a greater amount of coal?

A. Yes, sir.

21413 Mr. Mathewson: With the same amount of fuel you can carbonize a greater amount of coal.

Mr. Page: Well, either would be correct.

Mr. Mathewson: You might within certain limits.

Q. As comparing this particular retort house with the retort house at 14th Street; how much more efficient are these retorts than those at 14th Street?

A. In 14th Street I think there are some one-fourth depth benches, some half depth benches and these are full depth benches. Of the three, these would give the best results, as far as fuel consumption is concerned.

Q. That is an important item in the manufacture
21414 of gas, isn't it?

A. Yes, sir.

Q. What condition are these benches in?

A. Perfect condition.

Q. Do you know when they were put in?

A. The arches, in 1863; they had been rebuilt since that time; and the settings have been renewed many times.

Q. When were they rebuilt?

A. The settings, approximately every three years.

Q. I know that, but you said that the arches had been rebuilt or the apparatus had been rebuilt since then?

A. I have not got the date of rebuilding the arches; they were rebuilt at several times.

Q. You do not refer to the entire apparatus when you say it has been rebuilt; you refer to this refilling, is that what you mean?

A. I refer to the refilling and rebuilding of the arches.

Q. The refilling is taken care of as an ordinary repair made necessary by wear and tear?

A. Yes, sir.

Q. How about the rebuilding of the arches, is that the same? 21416

A. No, that probably does not occur but once in perhaps 20 years, 25 years in some instances.

Q. But this apparatus is in perfect condition to-day, you say?

A. Yes, sir.

Q. And do you allow something for depreciation?

A. 5 per cent.

Q. Well, why, if the apparatus is in perfect condition?

A. Because the arches are older in proportion to what the settings are. The settings are being reset now, a part of it is entirely new, already in operation and the balance is being reset at the present time. 21417

Q. I notice the retorts here are 14 inches by 24 inches, while the retorts, or a large number of them, at 14th Street are 12 inches by 21 inches.

A. Yes, sir.

Q. Is this a better retort, 14 inches by 24 inches—will it produce better results than a 12 inch by 21 inch retort?

A. No, sir, the results are the same.

Q. Well, the results are gas, of course; but I mean can you produce gas cheaper in a retort of this size than you can in the other

A. No. The charges of coal in smaller retorts are less than those in the larger, and the fuel consumption is correspondingly less, so there is no difference.

Q. Well, to produce the same number of thousand cubic feet of gas you have to charge a small retort more frequently—that is, more times—to produce the same number of thousand cubic feet, than in the other?

A. In an indirect way you do. You do not charge the same retort oftener, but you have more retorts, and with large retorts you produce the same amount of gas; in other words, you charge more retorts in the
21419 same space of time, but not oftener.

Q. It takes just as long firing to carbonize in a large retort as it does in a small retort?

A. Yes.

Q. Now proceed with the condenser and scrubber house.

A. Condenser and scrubber house:

Two cast iron scrubbers, 8 feet diameter, 18 feet height, $1,560, without depreciation, and $1,482 with depreciation.

Q. Is this each, or the value of both together?

A. That is only for one, and item No. 16 is the addenda; the item is explained that it should be doub-
21420 led, therefore there are two scrubbers, each of the same amount.

Q. How did you arrive at the value you give on the main sheet of your paper that you are answering from of two scrubbers of 24,000 pounds, multiplied by 6.5 cents a pound.

A. 6.5 cents a pound forms a figure composed of the following units—

Q. No, I do not mean that; I say how do you get at your 24,000 pounds?

A. That is estimated from the size of the apparatus.

Q. That is the two scrubbers would weigh—

A. 48,000 pounds.

Q. Well, you had the two scrubbers before you when you made the estimate of 24,000 pounds; you knew there were two scrubbers.

A. The estimate is made on the basis of one scrubber, and in the schedule multiplied by the number of apparatus, and in this instance was overlooked, and the weight put down for one instead of two. That I did not find until after I went to the works after all my schedule was made, to make a final examination, and then I discovered that error and added it to the addenda.

Q. Then you knew there were the two scrubbers 21422
there?

A. Yes.

Q. Now proceed with the condenser.

A. Two scrubbers are in my original note, but in transferring it on the schedule we transferred one instead of two.

Q. Those two scrubbers have been there since 1863, haven't they?

A. Yes, sir. One wrought iron tubular condenser; value, without depreciation, $17,220, with depreciation, $16,359.

Q. Is that a water condenser?

A. Yes, sir. 21423

Q. Do you know when that was erected?

A. 1863.

Q. How did you arrive at the value?

A. By multiplying the weight by the unit part of 8.4 cents per pound.

Q. Proceed.

A. One air condenser, without depreciation, $11,607, with depreciation, $11,027.

Q. Was that also estimated by weight?

A. It was.

Q. And what is the unit of weight there?

A. The unit price, do you mean?

Q. Yes.

A. 7.3 cents a pound

Q. Proceed.

A. One cast iron box 7 feet 6 inches by 5 feet 6 inches by 9 feet deep, $633; no depreciation.

Retort house Nos. 2 and 3.

Q. This box was an estimated weight at an estimated price, was it?

A. Yes, sir.

Q. What is your estimated price per pound?

A. 4.5 cents a pound.

21425 Q. Proceed.

A. Retort house Nos. 2 and 3, 6 benches of 6's, $18,000; 14 benches of 6's, $30,940, making a total for the above benches, $48,940, without depreciation; with depreciation, $46,493; 1 range of 20 benches of 7's, $65,000, without depreciation; $61,750 with depreciation.

Q. Building in benches of 7's is an improvement, isn't it, on building in benches of 6's?

A. Well, it depends upon the space you have at your disposal; I cannot call it exactly an improvement.

Q. Well, if you have a whole block to lay out your plant in—that is, I mean it produces better results and

21426 more economical results.

A. Yes, in the manner I have described before.

Q. And if you were building a plant to-day and had the room that they have in these 14th Street and 42nd Street plants, you would probably put it up in benches of 7's.

A. If I would build the plant for the total capacity at once, I should; but if I should start the plant with probably one-half of the capacity as this was done, I should not.

Q. Yes, I am talking about the plant, if you should put it up to-day. You say then you would?

A. For the total capacity I should put in larger benches.

By Mr. Mathewson:

Q. Built at one time?

A. At one time.

By Mr. Page:

Q. How much larger?

A. For a plant of this size I should put in benches of 9's.

Q. Go on Mr. Mayer.

A. There is one item in the addenda No. 17 which goes into this building $500 must be added to each 21428
bench for the same reason as given in retort house No. 1.

By Mr. Mathewson:

Q. These are deep regenerative furnaces, aren't they, all these in this retort house?

A. Not all, no.

Mr. Page: 14 benches are direct fire.

Mr. Mathewson: All except the 14 benches?

The Witness: Yes, that adds $3,000 without depreciation and $2,850 with depreciation.

Q. To which item?

A. To the 6 benches the deep regenerative furnaces, the first item in the schedule 21429

By Mr. Page:

Q. You add how much to each bench?-

A. $500, $3,000 for the six.

By Mr. Mathewson:

Q. Nothing for the fourteen?

A. No, sir: they are direct fire.

Q. How about the twenty benches of sevens? They are deep regenerative furnaces?

A. There is no addition to those: they are figured at $3,250 per bench.

By Mr. Page:

Q. What else have you in this retort house?

A. Nothing else in this retort house. The next is the exhauster and engine house.

Q. Proceed.

A. One 8 by 8-inch Greenfield engine, $1,625 without depreciation, $1,219 with depreciation; two large Mackenzie exhausters, $3,400 without depreciation, $2,550 with depreciation; one 16-inch by 30-inch horizontal engine, $3,200 without depreciation, $2,400 with depreciation; one 8-inch by 8-inch Greenfield
21431 engine, $425 without depreciation, $319 with depreciation; one 8-foot by 16-foot washer, $6,860 without depreciation, $5,145 with depreciation; one 10-inch by 10-inch Greenfield engine, $550 without depreciation, $413 with depreciation, one Eclipse washer, $5,488 without depreciation, and $4,116 with depreciation; one tubular condenser, $4,900 without depreciation, $3,675 with depreciation.

Q. Give the number of tubes 42-6 by 5?

A. It contains 576 5-inch diameter cast iron tubes. My first depreciation on all that apparatus named for exhauster and engine house was 25 per cent. But upon another examination, after the completion
21432 of the schedule, I found that the depreciation should only be 5 per cent; for the reason that all the apparatus is in perfect working condition; that makes an addition of $5,281 to the values of the apparatus in that house. I wish to state that these little differences occured in going back and forth to the works, because I could not grasp all the thing at one time, and while my men were working taking measurements at the works I was working on my unit figures to apply to the cost, and I had to go back there, and found the condition to be different than what I had assumed at first.

Q. You have got some oil gas scrubbers in here?

A. In this building?

Q. Those you have in this schedule you have given me. Two oil gas scrubbers.

A. Two oil gas scrubbers. They were given at $436 for two, without depreciation, and $327 with depreciation. That should be corrected as per item 19 in addenda. There should be added $734 without depreciation, and $698 with depreciation.

Q. Is that to be added to the other?

A. That is to be added to the other; yes, sir.

Q. There is one scrubber valued at $436 and another 21434
scrubber valued at $734?

A. No, the scrubbers weighed 18,000 pounds instead of 6,703 pounds, making a difference of 11,297 pounds in the weight, which I discovered on remeasuring the apparatus.

Q. And on a remeasurement and estimate of weight you found that you had made a mistake before, and then you multiplied this result by how much?

A. By 6.5 cents, the same price that was applied to the weight that was too small.

Q. Proceed now with the other oil gas condensers.

A. One cast iron oil gas condenser, without depreci- 21435
ation, $1,512; with depreciation, $1,134. These prices should be changed as per item No. 20 of the addenda, by adding $303 to the price, including depreciation.

Q. That is, that price should be $1,437 instead of $1,134?

A. $1,437.

Q. On a re-examination you found it was not depreciated as badly as you thought it had been?

A. No, sir; as I said before, I could not establish those facts until I went back and forth repeatedly to

the various works during the time my men were taking the measurements, because it was impossible for me to grasp the condition of all the apparatus on the first examination, and I did not want to go back and make an entirely new schedule, as the time was too short, and I made these addenda.

Q. We have another retort house, No. 4.

A. Retort house No. 4, four benches of sixes.

Q. If you have any corrections to make, probably you had better make them now.

A. Right away?

21437 Q. Yes, unless you prefer to give it the other way.

A. I can make the corrections. Value, without depreciation, $14,000, and with depreciation, $13,300, which includes the item No. 20-1/2 referred to in the addenda.

Q. What do you mean by "entirely disconnected except arches"?

A. I found that all the settings had been torn out, and on my second visit I found that new settings had been delivered at the grounds and they were going to put them in; they were setting the arches ready for repairs. I thought at first they had been abandoned.

Q. Now, the values?

21438 A. One small steam drip pump, $84; no depreciation.

Two continental boilers, 60-H. P. I will give this and give the deductions afterwards. $12,000 without depreciation, $10,800 with depreciation.

By Mr. Burr:

Q. That is for both boilers?

A. For both boilers.

Breeching and steel stack, $475 without depreciation, $428 with depreciation; one Continental boiler, 105-H. P., $5,100 without depreciation, $4,590 with depreciation. Breeching and stack for same $475

without depreciation, $428 with. Two small boiler feed pumps, $176 without depreciation, $158 with. One Knowles Air compressor, $700 without depreciation, $630 with depreciation.

By Mr. Page:

Q. Before we proceed, I notice that you value a 60-H. P. boiler at $6,000 and a 105-H. P. boiler at $5,100.

A. Yes, I say correct that afterwards in the addenda.

Two feed water heaters, $600 without depreciation, $540 with. One 8x8 Greenfield engine, $365 without, 21440
$324 with.

One vertical drill press, $100 without depreciation, $80 with.

One pipe cutter, $425 without depreciation, $340 with.

One bench lathe, $50 without depreciation, $40 with.

Mr. Page: Can he not lump those small items?

Mr. Mathewson: If you do not want the values of them why not let him say simply, bench lathe, grindstone, etc.?

Mr. Page: They are small items, I do not think we ought to waste time on them. Just state what they are. 21441

Grindstone, two brick forges, two anvils, one sledge block, one hand shear, one hand punch, one bench, one portable forge, five 100-gallon oil tanks, one 50 gallon oil tank, blacksmith's tools, wooden benches, bench vises. Those latter items, the tools, come out, they are taken off of the ten per cent, addition to the end of the schedule. As I said before, 10 per cent, has been omitted from all those figures. There should be deducted from the total sum of the boilers $10,025, including depreciation.

Q. On this Continental 60-H. P. boiler, or the three?

A. On the total sum of the three boilers.

Q. Why did you make that deduction?

A. It was a mistake in the first calculation.

Q. What mistake was made in the first calculation?

A. The first two boilers should cost—without depreciation, instead of $12,000 without depreciation, and the third boiler should cost $2,730 instead of $5,100 without depreciation.

By Mr. Mathewson:

Q. How much with depreciation; did you figure that out?

A. I gave the total just now; with depreciation
21443 $5,265 for the three boilers.

By Mr. Page:

Q. Then you were right in your original assumption that a 105-H. P. boiler 7 by 12 would cost more than a 60-H. P. boiler 5 feet 6 inches by 12, were you? Deducting your $6,240 from $12,000, you get $5,760; divide that by two is $2,880 as the price of the 60-H. P. boiler as $2,730. Is that right?

A. The price for the two boilers of 60-H. P. each should be $3,120 without depreciation, and the price for the one boiler 7 feet in diameter should be $2,730 without depreciation

Q. Therefore instead of $12,000 as the value of
21444 those two boilers it should be $3,120.

A. Yes.

Q. How do you arrive at the value of those boilers?

A. Those prices I got from the Continental Iron Works.

Q. Proceed.

A. Carpenter shop, total contents, $1,500, which includes items in addenda No. 22.

Q. How much do you make it?

A. $1,500.

Q. Without depreciation?

A. Yes.

Q. And with depreciation how much?

A. $1,425 with depreciation.

Q. You can take the coke storage yard in the same way.

A. Coke storage yard, total value $1,510 without depreciation, $1,323 with depreciation, tanks and scales total value without depreciation $1,226, with depreciation, $1,187.

Q. How do you get the value of that?

A. I got that from the companies that furnished the scales.

Q. Do you take their list price? 21446

A. No, I telephoned for a price for the scales to be delivered and erected in New York City.

Q. Proceed.

A. Water meters, $100; no depreciation. Coal in storage not included in plant. Coal hoisting apparatus, total price of all machinery, $55,000 without, $52,250 with.

Q. Now, in adding this $20,000 to the original estimate of value, what is the reason for that? Why did you add it?

A. Because of a correction of the figures given by the people that furnished the apparatus. They gave me first $35,000 and omitted the grab bucket and the 21447
hoisting rigging at the dock, the hoisting engine, etc. In their first price they included only the railways and transporting machinery for the coal, but no hoisting machinery.

Oil in tar storage:

Two wrought iron tanks, 9 feet diameter, 30 feet long, $2,075 without depreciation, $1,868 with.

Eight wrought iron tanks, 8 feet diameter, 25 feet long, $6,014 without depreciation, $5,714 with.

One wrought iron tank, 30 feet diameter, 21 feet long, $3,302; no depreciation.

One wooden tank, 30 feet diameter, 15 feet 6 inches high, $540.

Piles under wooden tank, $650.

Wrought iron tanks, 5 feet diameter, 25 feet long, $437 without depreciation, $415 with.

One wooden well, 20 by 25 by 8 feet deep, $256 without depreciation, $230 with.

One wooden well, 20 by 20 by 8, $166 without depreciation, $150 with.

One wooden well, 18 feet 7 inches by 7 feet 6 inches by 8 feet, $437 without, $415 with.

21449 Piles under wooden tanks, $576 without depreciation, $519 with.

The depreciation for piles in this instance is due to the fact that the piles are above the water line and show the least signs of decay right above the ground. If piles are above the water line I figure no depreciation. I make that explanation so that you will understand it when I say there is no depreciation on any foundations.

Q. Have you got the price of wrought iron tank, 12 by 12? Is that omitted?

A. Yes, it is omitted.

Now, under the total there is an item, $25, which
21450 adds to the price, with depreciation, $4,364, for lead lining in all of the wooden tanks, that I did not discover until a subsequent visit to the works.

Q. In arriving at the valuation that you have given for these wrought iron tanks, did you proceed as before, by weight?

A. Yes.

Q. And what unit of value did you take?

A. 6 3/4 cents per pound.

Here a recess was taken until 2:15 P. M.

After recess.

By Mr. Page:

Q. Is there some correction you wish to make?

A. Yes, sir; I want to insert item No. 14 under the heading of engine, meter house and office. The depreciation was changed from 25 per cent to 5 per cent under that item 14 on account of the meters having been provided with new drums in 1892 for the 13 foot 6 inch meter, and the drums which were placed in place in 1882 at that time were provided with new partitions. 21452

By Mr. Mathewson:

Q. When you made the 25 per cent estimate did you assume that the drums were the same as were put in when the meter was manufactured originally?

A. Yes, sir.

Q. And you found subsequently that that was not the case, but new drums had been substituted?

A. New drums had been supplied; yes, sir.

Q. What would that item be?

A. That adds an item, including depreciation, of $2,805.

Q. What would it be then, the value as you now figure it, including depreciation? Oh, those were 21453
the three engines under heading of meter, engine house and office?

A. Yes, sir. It would make a total item of $13,680 instead of $10,875.

By Mr. Page:

Q. Is there anything else you wish to add?

A. Have I item No. 26 in the addenda?

Q. No, I don't think so.

A. I think the last we had was the lead lining for wooden tanks?

Q. Yes.

A. And there was one additional item, No. 26, in the addenda for one cast iron purifier, 30 feet by 20 feet by 3 feet deep, with wrought iron cover and hoisting crane, located in the deodorizer house; total value, $4,760 without depreciation; $3,332 with depreciation.

Q. Why do you take off a 30 per cent depreciation there?

A. That was a purifier which was located on the dock, and is not in as good conditions as were the rest of the purifiers used to purify for carbonic acid
21455 and sulphur. This purifier was erected, I understand, for the purpose of relieving the works of any smell, of which complaint was made by the Health Department, and has not been kept in as good condition as the rest of the plant?

Q. Is it used?

A. Yes, sir. It was not in a good condition. The sides are rusted, the cover tops are rusted.

By Mr. Mathewson:

Q. Let me ask you for clearness, whether all these items in the addenda which you are dealing with have been taken into account in making up the totals to which you have testified?

A. Yes, sir.

21456 Q. So they are all included in the totals?

A. Yes, sir.

Q. They are not changes?

A. There are no changes in the totals except for the corrections as we found them going along, giving the changes, such as I made this morning, for instance.

Q. Is that true of all these schedules for the other plants also?

A. Yes, sir.

By Mr. Page:

Q. This completes the apparatus of the Consoli-

dated Gas Company that is used for the manufacture of coal gas?

A. Yes, sir.

Q. At these two stations, 14th Street and 42nd Street?

A. Yes, sir.

Q. In giving the capacity of the plants at 14th Street as 5,000,000 cubic feet per day and at 42nd Street as 4,500,000 cubic feet a day, did you take that as the maximum daily capacity?

A. Yes, sir.

Q. Could you run works at that maximum daily 21458
capacity?

A. Yes, sir.

Q. Could you run works at that maximum daily capacity for any length of time?

A. Continuously.

Q. What candle power gas did you estimate would go through those works at this capacity? Just the ordinary coal gas as it is produced, is that it?

A. Yes, sir.

Q. Then you would add to the total capacity of the works, would you, the oil gas that is added as enricher?

A. Yes, sir.

Q. Are all parts of the two stations up to that full 21459
capacity?

A. Yes, sir.

Q. That is, the retorts, purifiers and condensers?

A. The entire apparatus is that capacity.

Q. And you could run it at that capacity during the period of the highest demand?

A. Yes, sir.

Q. In the winter months?

A. Yes, sir.

Q. All through the month of December?

A. Yes, sir, or longer, if necessary.

Mr. Mathewson: I do not think the witness is a gas maker, or an expert in the particular line in which the Senator is questioning him, but whatever he says, for what it is worth, I have not objected. He is not a gas manufacturer.

Mr. Kirby: It is not what the works do. It is the apparatus there, with which he seems to be familiar.

Mr. Mathewson: There are a good many other things though, such as shutting down for repairs, etc.

21461 Q. Now, in the various buildings that you appraised, are all of them in actual use now for the manufacturing purposes of the plant?

A. Naturally.

Q. How about the apparatus?

A. All in use.

Q. There is nothing upon this appraisal that you have given here that is not in actual use today in the plant?

A. No, sir.

Q. Now, as I understand, you did not make your appraisal by finding out how much this property actually cost the company and then making an allowance for depreciation?

21462 A. No, sir. I never saw any figures of that kind.

Q. Is it your idea that gas making machinery by use enhances in value?

A. Some of them do, yes, sir.

Q. What particular part of the gas machinery becomes more valuable by use?

A. Well, for instance, water gas generating apparatus.

Q. We are talking about the coal gas stations?

A. Oh, particularly about coal gas? You want nothing except new engines, exhausters and appara-

tus of that kind. Those which have moving parts, they are better operated after they have been submitted to some wear and tear and have the proper bearing and do not heat and do not bind.

Q. Well, you mean by that that any machine when it is first operated is stiff and does not give its maximum capacity?

A. Yes, sir.

Q. But if it is run for a few weeks and has "found itself," as they express it, I believe, then does it continue to increase in value?

A. No, it does not increase its value, but it main- 21464
tains its value.

Q. Then if it should appear that this very apparatus cost the company very much less than these estimates which you have given would you change your estimate or your appraisal at all?

A. No, sir, I would not.

Q. Why not?

A. My estimates are based upon my own personal knowledge of these matters for a good many years and therefore I cannot be wrong.

Q. And therefore if the company actually paid less you think the company must have been wrong?

A. Well, I don't know how they established their 21465
selling prices, but my values are based upon actual facts as they exist today.

Q. Then, as I understand it, you are not attempting to find the capital of the company that was invested in the plant, but what someone would have to pay if they got you to build them a plant somewhat similar to this today, is that it?

A. That is the idea exactly, with the exception that it would be an exact duplicate of the plant as it exists today.

Q. If, however, you were going to build a coal

gas plant today of a capacity of 9,500,000 cubic feet per day, would you reproduce this identical plant?

A. I would not.

Q. You could not buy in the open market today, could you, all the apparatus that is used in these plants?

A. With a few exceptions, yes.

Q. There is nothing appearing in your testimony, nor have you any knowledge, of how much of this plant came to the Consolidated Gas Company at the time of its consolidation in 1884?

21467 A. No, I know nothing about it.

Q. And don't you know what particular portions of the plant have been added since that time?

A. No, I do not. That is I mean to say I do not know at the present time. I have been figuring on the work myself for some years, but I cannot state just now what they are.

Q. The additions that you have made yourself to the plant of the Consolidated Gas Company have been made to the 14th and 42nd Streets, or to the water gas stations?

A. I made some in 42nd Street, I believe, and a few apparatuses in the 14th Street, I think some at

21468 21st Street—I don't recall exactly all the works now. There are other stations which I don't recall at the present moment.

Q. In making this appraisal, did you state the actual amount received by you for making these additions?

A. No, sir.

Q. Did you take a larger or smaller amount?

A. That I can't tell, because I did not refer to the figures which they received at all.

Q. Well, then, as I understand it, this valuation of yours is not the valuation of this plant as it ex-

ists, but you have taken a mental picture of the plant and estimated what it would cost you to reproduce such a plant today, and have made a mental estimation of the weight of such a plant and multiplied it by some other figure to produce the appraisals that you have presented here today?

Mr. Mathewson: I object to one portion of that question as a conclusion. The Senator states he has not taken the value of the plant. It is our contention that the value of that plant is what it would cost to reproduce the plant today. It causes the witness to discriminate in a matter of law, which he is not competent to do. 21470

Mr. Page: That may go to the weight.

The Master: I think he may answer it. It is proper on cross-examination. That is, if he can answer.

A. If you mean by the mental picture of the plant a careful personal examination of the same then you are correct. I have based my valuations upon a careful, personal examination and estimated each and every item in detail of what that value would be today if I were asked to build a new plant.

By Mr. Mathewson:

Q. Less depreciation that has accrued? 21471

A. Yes, except when depreciation is mentioned.

By Mr. Page:

Q. You mean by that that you take first what it would cost you to build a similar plant today, and then from that standard you figure off a certain percentage for depreciation, that amount being the amount that the property in its present condition has depreciated from the standard which you would establish as a thing which you would produce today, is that so?

A. As absolutely new apparatus, yes.

Q. Yes. As absolutely new apparatus?

A. Yes.

Q. I understand that if you were to produce a plant today which would produce the results that this plant does, that you would not build this kind of a plant is that right?

A. Not if I were asked to build a plant with the total maximum capacity as it exists today.

Q. And you could build such a plant cheaper could you not than the estimate which you have given?

A. No, it would cost more, but it would be better. It would include a great many apparatuses which these plants do not include.

21473 Q. But your result in the cost of gas produced at that plant would be very much less, wouldn't it?

A. Yes.

Q. Take merely the item of the number of retorts to a bench and the size of the retorts; you have stated that it would take less fuel per hundred pounds of coal carbonized in the larger retorts and more retorts to the bench, and you would make a saving that way?

A. Provided you compare the benches of the new plants of the same type with the benches in the existing plant.

Q. Yes.

21474 A. That is, if you compare benches of both plants with full depth regenerating furnaces, one with the other, or benches without any regenerating furnaces, one with the other.

Q. Well, you would not manufacture today a bench without regenerating furnaces, would you?

A. I would not.

Q. Now, as to the item of labor, don't you save on labor by having the modern bench where there are more retorts to the bench and larger retorts than you would upon the old-fashioned bench that is used in these 42nd and 14th Street plants?

21475

A. The difference would be very slight when you apply machinery, when you apply stoking and drawing machinery and work the same to the full capacity of the machines, then you save in one instance as much as you would in the other, almost.

Q. Now, you have stoking and drawing machines at 14th Street?

A. Yes, sir.

Q. But you have not in 42nd Street?

A. No, sir.

Q. Now, the inclined retort takes even less fuel, doesn't it than the horizontal retort?

21476

A. That is not due to the location of the retort, it is due, as I said before, to the furnace applied under the retort settles; if you have the same depth of furnace under the inclined retort as you have under the horizontal retort, then the fuel consumed in both would be alike.

Q. Yes, but they do not, do they?

A. They do. There are many instances where the heating surface in the inclined was absolutely the same as the horizontal, both styles of retorts being of the same length.

Q. Is that so in the inclined retort house at Astoria?

21477

A. That is the case, yes, sir.

Q. That it was the same depth and the same heating surface?

A. Approximately. I don't know the exact dimensions, but I think that the horizontal retorts have approximately the same cross-sectional dimensions as the inclined retorts.

Mr. Mathewson: As a matter of fact, we have both horizontal and inclined.

Mr. Page: I know, but I am talking about the inclined retort house, as I say.

Mr. Mathewson: We have installed both kinds at Astoria, and don't know which will be the best.

Mr. Page: I limited my question to the inclined retort house.

The Witness: There is no difference where the heating surface of the retorts is the same in both cases and the same method of heating is applied.

Q. Now, in arriving at the prices for some of your materials here you say you applied to the manufacturers and got estimates from them?

21479 A. In such apparatus which are of standard makes and in the instance of retort benches.

Q. That was to be installed, wasn't it, the plant installed?

A. And brick work installed complete, to which I added my iron work, in the instance of benches, at my own valuation and my own estimate.

Q. Would not the contractor add 10 per cent or engineering in his estimate?

A. Undoubtedly, for his own work, in each and every instance.

Mr. Mathewson: But that would not dispose of the supervision of our own engineers.

21480 The Witness: But that ten per cent added on the end would not affect the other ten per cent. That is an entirely different percentage.

Q. Then on any apparatus that would be furnished by contractors there would be 20 per cent, would there for engineering?

A. No, sir, the contractor would only add 10 per cent for his own shop cost, operating expenses, wear and tear of plant, etc., while the ten per cent which is added to the end of these estimates is for expenses which the gas company would have in addition to

the cost which they paid the manufacturer for the apparatus, for their own engineering costs.

Q. Well, then, as I understand it, if you went to a contractor who gave you a bid on an apparatus that would cost him $10,000 and he would add ten per cent, which would be $1,000, you would put that in this estimate and add another ten per cent to the $11,000 in getting at your estimate of price or of cost?

A. Exactly.

By Mr. Mathewson:

Q. Would not his ten per cent be in his own esti- 21482
mate or bid?

A. The first ten per cent would be in his own bid or estimate.

Q. You would not put it in?

A. No, I only put in one ten per cent to his bid.

By Mr. Page:

Q. But you would take his figure at $11,000, put that in, and add your ten per cent to it, wouldn't you?

A. I would.

By Mr. Mathewson:

Q. You mean to say that if his bid or estimate 21483
was ten thousand dollars you would add one thousand dollars to that for his bid?

A. No, for the general engineering of the plant that ten per cent is created by the gas company for the entire construction of the plant as such, not for any individual apparatus. If I should buy any individual apparatus for repairs, and so forth, I should not add anything for engineering expenses; but in laying out and constructing a gas plant that ten per cent is needed and added by the gas company and more than that in many instances. You must remem-

ber that that ten per cent includes a great many other items, such as filling holder tanks with water and curbing, grading and sewerage. I enumerated them the other day, miscellaneous expenses.

Q. Now, we will turn to the 21st Street plant. The 21st Street station is a water gas plant, isn't it?

A. Yes, sir.

Q. And also includes a plant for the manufacture of oil gas to enrich coal gas at the 14th Street station, is that right?

A. Yes, sir.

21485 Q. Will you give us the value of each of the buildings?

A. The total value of all buildings without the ten per cent for general engineering and the five per cent for interest charges amounts to $1,579,695.

Q. Well, I asked you to take up the buildings in detail.

A. Stove storage and meter proving shop, $57,470 without depreciation, $56,320 with depreciation.

Mr. Page: You have given the dimensions of these buildings, have you?

The Witness: Yes, sir, they are in the schedule.

21486 Mr. Mathewson: They are all given.

The Witness: Meter repair shop and office, $59,530 without depreciation, $58,340 with depreciation.

Stove repair shop, $26,830 without depreciation; $26,294 with depreciation.

Stove cleaning room, $1,285 without depreciation; $1,260 with depreciation.

Diaphragm room, included in stove repair shop.

Prepayment meter repair shop, $14,557 without depreciation, $14,266 with depreciation.

Storage room, $1,836 without depreciation; $1,800 with depreciation.

Wash room, $1,512 without depreciation; $1,482 with depreciation.

Q. All the buildings you have mentioned up to and including the last were built in 1890, were they?

A. Yes, sir.

Q. And you figured the depreciation at the rate of two per cent?

A. Yes, sir.

Q. Proceed.

A. Boiler house, without depreciation $11,023, with 21488
depreciation, $10,742.

Oil storage house, without depreciation, $221; with depreciation, $210.

Lead and yellow metal storage house, without depreciation, $650; with depreciation, $618.

Fire hose house, without depreciation, $54; with depreciation, $51.

Valve house, without depreciation, $2,828; with depreciation, $2,743.

Q. Now, the last three buildings before this one were built in 1890?

A. Yes.

Q. And this last building was built in 1883? 21489

A. That is the way I have it here.

Q. That is the valve house?

A. Yes. Octagonal valve house, $2,592 without depreciation; $2,463 with depreciation.

Valve house, $475 without depreciation; $452 with depreciation.

Q. That building was built in 1880?

A. 1880, yes, sir.

Q. And the octagonal valve house in 1883?

A. 1883.

Tinsmith shop, without depreciation, $3,193; with depreciation, $3,033.

Q. That was also built in 1880?

A. 1880.

Storeroom, triangular building, without depreciation, $320; with depreciation, $295.

Paint shop, triangular building, without depreciation, $320; with depreciation, $295.

Office building, without depreciation, $20,000; with depreciation, $19,000.

Q. That building was built in 1860, wasn't it?

21491 A. 1860 is what I have it down here.

Engine room and machine shop and gangway, without depreciation, $74,891; with depreciation, $71,240.

Q. That building was built in 1865?

A. 1865.

Engine room, without depreciation, $8,600; with depreciation, $8,428.

Q. That was also built in 1865?

A. Yes, sir.

Machine shop, without depreciation, $2,200; with depreciation, $2,156.

Q. Built in 1865?

A. 1865.

21492 Old retort house, without depreciation, $74,860; with depreciation, $71,117.

Foundation for benches in old retort house, $11,800. No depreciation.

New shop building, $7,420 without depreciation; $7,272 with depreciation.

Q. That building was built in 1890, wasn't it?

A. The new shop building.

Q. Yes.

A. 1890, yes, sir.

Old carbureter house, $8,176 without depreciation; $7,768 with depreciation.

Q. That was built in 1860?

A. 1860.

Generator house over machines 6 to 13, without depreciation, $63,569; with depreciation, $61,663.

Q. That building was built in 1865?

A. 1865, yes, sir.

Q. Just state that in each instance where you have it.

A. Building over coke and coal storage without depreciation, $85,140; with depreciation, $83,437. Built in 1865.

Generator house, 22nd Street, without depreciation, 21494
$93,840; with depreciation, $91,963. Built in 1873.

Retort house, 22nd Street. Without depreciation, $110,450; with depreciation, $104,926. Built in 1865.

Extra for bench foundation in this house, $12,700. No depreciation.

Pump house, without depreciation, $4,796; with depreciation $4,556. Built in 1865.

No. 1 shed, south side of 21st Street, without depreciation, $67,846; with depreciation, $65,811.

Nos. 2, 3, 4 and 5 sheds, same values as No. 1 shed.

Q. Each?

A. Each, just the same value as No. 1 shed. 21495

Q. Those were all built in 1874?

A. All built in 1874.

Purifier house, without depreciation, $97,626; with depreciation, $94,697. Built in 1874.

Condenser and scrubber house, without depreciation, $97,626; with depreciation, $94,697.

Another purifier house of the same value. All built in 1874.

Meter house without depreciation, $38,665; with depreciation, $37,891. Built in 1884.

Shaving and scrubber house without depreciation, $66,017; with depreciation, $64,037. Built in 1874.

Exhauster house, without depreciation, $42,943; with depreciation, $42,084. Built in 1884.

No. 327 to No. 331 Avenue A, not valued; included in real estate.

Coal shed, without depreciation, $63,168; with depreciation, $60,010.

Stable not valued, included in real estate.

Water tower, without depreciation, $1,387; with depreciation, $1,277.

21497 Excavation, cribbing and refilling for twelve oil tanks located on low ground, $8,118. No depreciation.

The same for ten separating tanks, $8,462; no depreciation.

One foundation for a new oil tank, $5,000.

One foundation for a steel tank, $980. No depreciation. That is all for the buildings.

Q. In arriving at the value of the buildings, I suppose you proceeded in the same method, taking the number of cubic feet contents of the buildings and multiplying that by some unit?

A. Yes, sir.

21498 Q. What was your unit for a brick building?

A. What kind of a brick building?

Q. Any kind, it don't make any difference, does it?

A. Yes, it makes a big difference, because all these prices are based upon a specific building. You cannot compare a retort house with a generator house, or you cannot compare a generator house with an office building, but they are all brick.

Q. I thought you went by the cubic contents, no matter what the walls were?

A. No; I go by the cubic contents or the cubic feet of contents of a building, for the same class of build-

ing, not of all buildings. That would not be a fair valuation. You take a retort house in one place and a retort house in another, or you take a generator house in one place and a generator house in another place, and you get a correct valuation.

Q. If you had estimated by what it would cost to put up the walls and what it would cost to put in the other material, then you would have the same unit for all kinds of buildings?

A. No, sir.

Q. Brick costs as much if you put it in a retort house as if you put it in a generator house, does it not? 21500

A. But the number of bricks that you put in a retort house of the same capacity, as far as the general plant is concerned, in comparison with the generator house would be very different; it would not by any means be the same number of bricks, the number of cubic feet would be the same.

Q. Oh, I do not mean that.

A. You have got to make a comparison for the same class of buildings; otherwise you would not obtain a correct valuation.

Q. What was your standard of comparison with this 21st Street plant? 21501

A. For the retort house, the retort house of Kings County; for the condenser house, the condenser house of Kings County; for the office building, which is a two-story office building, I took the Kings County. In the instance of the buildings, it includes all the valuations of the machinery and apparatus, except where I found that additional foundations of greater depth had been built at a very much greater cost. In this instance I have added the increased cost of the foundations where they did not compare with normal conditions, as was the case of Kings County.

Q. Kings County was a coal gas plant, wasn't it?

A. Yes.

Q. Did that make any difference?

A. No, most of these buildings were originally coal gas buildings.

Q. And have been converted into water gas buildings?

A. Yes; I know from my own knowledge, and having figured these buildings so many times for various plants, that the total aggregate of the buildings forming a gas plant is so near correct that if you
21503 were to get detailed estimates of each and every building there would be no variation of any amount.

Q. The buildings in this plant as I understand you, were originally put up for a coal gas plant and have since been turned into water gas?

A. In a great many instances; there were some additional water gas buildings, but the generator house was built for water gas purposes and it is exactly the same.

Q. Now, the generator house in a water gas works would be very much smaller than it would be in a coal gas plant?

A. Of the same capacity, yes.

21504 Q. Then, if you were to give an estimate for building a water gas works today they would correspond with this in capacity and other particulars, but you would build smaller buildings, would you not, in some respects?

A. The buildings would be smaller for capacity; that is, a similar building would contain a larger capacity, but the price of that individual building would not change at all; my unit price would be absolutely applicable.

Q. Your unit price would be applicable, but the

multiplication by the number of feet would be less and would produce a less cost?

A. Exactly.

Q. What is the capacity of this plant for water gas?

A. 24,000,000 cubic feet.

Q. Now, I do not wish to have any misunderstanding about this. You could build a 24,000,000 cubic foot daily capacity water gas plant in the way of buildings or considerably less than this 21st Street plant requires in the way of buildings now, could you?

21506

A. Oh, no, these buildings are all completely filled with water gas machines to their full capacity.

Q. Now, recently have you been to those buildings?

A. Three or four times. What station are we on now.

Q. 21st Street. Is the retort house completely filled with gas making machinery today?

A. You asked me about water gas apparatus.

Q. I am talking about water gas. You have got down here retorts.

A. That is for the oil gas.

Q. Well, call it generating house.

21507

A. Yes, the generating house is completely filled.

Q. Have they built any new generators in there, do you know, in the last year and a half or two years?

A. I have not got the year when the last water gas apparatus was installed, but every foot of space in that entire works is taken care of by the capacity of plant. In fact, they are so close that in the generator house they are so close they are almost two together, and the walls have been broken out and columns have been substituted.

Q. Then, you think as far as the buildings are concerned—that is, if you build a coal gas plant and afterwards tear it out and instal water gas machinery you can do it cheaper than you could produce a new water gas plant with buildings adopted to that particular kind of plant?

A. Oh, yes, no doubt about that.

Q. And that is the most economical method of construction, would you say, as a gas engineer?

A. If I had the building, yes; I certainly would not tear the building down and build a new one.

21509 Q. That is what you mean. Having a coal gas plant, it is cheaper for you to alter those buildings and instal gas machinery than it would be to tear down the buildings and build entirely new buildings?

A. Yes, sir.

Q. And if you were starting with a piece of ground, which would be the better way and produce the better results?

A. You would have to build new buildings; it would be better to build new buildings.

Q. You do not think it would be cheaper to build a coal gas plant and change it into a water gas plant?

A. No, sir.

21510 Q. That is what you said?

A. I said if I had a coal gas plant.

Q. Then, as a matter of fact, it would cost less to build a new water gas plant on this 21st Street station of the capacity of 24,000,000 cubic feet in the way of buildings than you have estimated for the value of the buildings at present in use; is that so?

A. No, sir, it would cost more. I said before that those buildings are entirely filled to capacity of water gas plant, and therefore new buildings would cost more if built for water gas.

Q. We are talking about an entirely new plant.

A. Yes, those buildings would cost more than changing these, for the same capacity.

Q. Well, I do not know if you understand my question.

A. I mean on the basis of water gas capacity, those buildings in the altered condition cost less than new buildings would have cost if they had to be built for that purpose, for the reason that the entire buildings are filled entirely to capacity.

Q. As I understand your method of getting at this, you have figured what it would cost to produce new 21512
buildings similar to these?

A. Yes.

Q. And you have not estimated what is the value of those buildings, but what it would cost you today to build buildings similar to this?

A. Yes.

Q. Now, if you were going to build a plant, a water gas plant, of 24,000,000 cubic feet daily capacity, would you build buildings similar to this?

A. Absolutely the same, in that location.

Q. You would?

A. Yes; I could not do otherwise, because they have utilized every square foot of ground in these 21513
buildings to the capacity of the apparatus, that is the controlling factor in the designing of the plant.

Q. And you could fill them to capacity and use them to much better advantage?

A. No, that is the point I am making. Those buildings are used entirely to capacity. Every square foot is used to capacity. You could not do better except by designing the building in different shape.

Q. Then you have an ideal water gas plant?

A. For that portion of it, yes.

Q. As far as the buildings are concerned?

A. As far as the generator house is concerned; we are talking about the generator house.

Q. I am talking about the buildings?

A. Oh, yes, the rest of the buildings contain apparatus of standard make and, therefore, could not be designed from what they are in that location.

Q. Having settled that satisfactorily, we will turn to the apparatus. I notice you begin with your storage, tools in meter proving shops, etc. Does that correspond with the order in which the buildings are taken up?

21515 A. No, sir, it does not.

Q. This repair shop is used for the repairing and proving of meters for the company generally?

A. Yes.

Q. And also for storage and repairs of stoves?

A. Yes.

Q. The capacity, etc., would not be limited to what would be necessary for a plant of the size of the 21st Street station alone? That is, if that was all the company had; it would not require as large a shop for a company that only put out 24,000,000 cubic feet of gas a day as they have there, but this is to take care of those things that are necessary for all the stations, is that right?

21516 A. Yes, but it is not by any means large enough; they use it to the best advantage because they have it there.

Q. Yes, but the only thing I am trying to get at is, not criticising them for having a large repair shop, but if we wish to get an estimate of valuation upon a plant of 24,000,000 cubic feet daily capacity, you would not take this as one of the elements, because this is very much larger than is necessary, is it not?

A. No, it is not larger than necessary.

Q. Not larger than is necessary for a company that only puts out 24,000,000 cubic feet of gas a day?

21517

A. No, I know a company that puts out a good deal less gas than they do and has repair shops of three or four times that capacity.

Q. Proceed then and get at the value. How would you multiply this?

A. In getting at the value I took the building as it was.

Q. Well, this is an ideal plant; it is not anything that really exists that you are testifying to.

Mr. Mathewson: That is exactly what it is, something that does exist.

Mr. Page: No, it is an intangible figment of the moment. 21518

Mr. Mathewson: Not at all. You are entirely wrong.

Q. Well, proceed with what substantial facts you can give in regard to what is in this particular house.

A. Do you want me to read this whole list?

Q. You have estimated this in its entirety; have you not the details?

A. I had the details and got them from all these various manufacturers. There is such a multitude of them that I added them together and put down the total sum.

Q. Have you got the value of the engines? 21519

A. All engines, 17,600 without depreciation, and 17,248 with depreciation.

Q. How many engines does that make? You might read off just the engines.

A. One 15-horse power Otto gas engine.

One 30-horse power steam engine.

One 10-horse power vertical steam engine, pulleys and shafts, etc.; all that goes with the engines.

Q. Whatever you have included with the value of the engine you might give.

A. One nickle-plated dynamo, 75 feet of 1 and

3/16-inch dynamo shaft, 6 cast iron pulleys, 10 to 18 inches diameter, 4 14-inch hangers, 12 16-inch hangers, 14 wooden pulleys, 13 to 18 inches diameter, 4 cast iron pulleys, 6 to 10 inches diameter, 12 feet of 1-inch shafting, 3 14-inch hangers, 3 counter shafts, 7 hangers, 16 inches by 2 3/16 inches diameter, two wooden pulleys, one elevator, 4 by 6 feet, 28 municipal arc lamps, 12 feet of 1 7/8-inch diameter shafting, 3 16-inch hangers, 18 feet of 2 3/16-inch diameter shafting, 8 cast iron pulleys, one emery grinder, 6 polishing lathes, 321 feet of 4-inch belting, 757 feet of
21521 2-inch belting, 166 feet of 6-inch belting, 100 feet of 1 1/2-inch belting, one Sturtevant exhauster, 12-inch outlet, one 3-cylinder Westinghouse gas engine, 6 twelve-inch hangers, 18 feet of 1 1/8-inch diameter shafting, one Knowles double cylinder steam and air compressor, one Westinghouse 8 kilowatt lighting generator, 20 feet of one-inch shafting, 5 12-inch hangers, 3 cast iron pulleys, 3 feet of 1-inch countershafts. That is all.

Q. The items you have enumerated are included in the valuation of engines $17,600, are they?

A. Yes, sir.

Q. Now, the other various apparatus.

21522 A. $14,300 without depreciation, $14,157 with depreciation.

By Mr. Mathewson:

Q. What does that make the total?

A. That makes a total of $31,900 without depreciation and $31,405 with depreciation.

Q. That is all, down to the boiler house?

A. That is all, down to the boiler house.

By Mr. Page:

Q. What the gas consumer governors used for that you have in this schedule?

A. They are governors probably that they put on the pipe adjustment of pressure under the conditions that exist here.

Q. Now, you may take up the contents of the boiler house.

A. Boiler house; do you want that in totals?

Q. I think you had better give that separately; there are only a few items.

A. Two 60-horse power boilers, $2,710 without depreciation; $2,440 with.

Q. Those are locomotive boilers, so-called, are they?

A. Yes, sir.

Q. Each with 72 tubes, 2 1/2 inches and 3 inches, 13 feet long; is that right?

A. Yes. 21524

Q. Proceed.

A. One 3-inch Worthington meter, $50.

Q. That is a water meter?

A. A water meter, yes, sir; no depreciation.

Two 24 by 30 steel stacks, $96; no depreciation.

Thirty cubic yards of fire brick blocks, $780, no depreciation.

Oil storage house, total contents, $50, no depreciation.

Q. What does that mean?

A. The oil tanks, cocks and spiggots, and connections and things like that.

Q. What is the capacity for oil storage in that 21525
house, do you know?

A. No, sir, I do not; that is for a lubricating house.

Q. Oh, a lubricating house?

A. Yes, only $50 for the whole contents.

Q. I thought you were running a pretty small oil can.

A. That is a lubricating house. Lead and yellow metal storage house, entire contents, $250; no depreciation.

Q. What does that mean, the entire contents? Is that the lead and metal stored in there?

A. Lead, yellow metal, smelting pots and all things like that, all small things.

Q. Proceed.

A. Fire hose house; entire contents, $250, no depreciation.

Valve house; do you want that in detail or the total?

Q. You might give the items in detail.

A. Photometer closet with bar photometer, $650, no depreciation.

Three gas pressure gauges, $10, no depreciation.

One Bristol recording gauge, $35, no depreciation.

21527 One electrical pressure indicator, as called for by item 1 of addenda, $250.

Octagonal valve house, one 7 feet by 7 feet wood tank, $360, no depreciation.

One gas lamp on roof, and four gas lamps in walls, all five lamps, $40, no depreciation.

Tinsmith shop: Rigging, blocks and other contents in that house, $150, plus $400, as per item No. 2 in addenda; no depreciation.

Store room: Contents, $60; no depreciation.

Office building: Contents, except chemical apparatus in laboratory, $1,650; no depreciation.

Q. Does that include the two photometers?

21528 A. Yes, sir, the two photometers and all office furniture, but no apparatus in the chemical laboratory.

Chemical apparatus for complete laboratory, $4,000.

Q. Well, do you mean that is chemical apparatus they have there or what would be necessary to make a complete laboratory?

A. They have everything complete there. That is a complete laboratory of all the works.

Q. That is the only laboratory they have?

A. They have a laboratory of the chief chemist of the company where he makes all his tests, besides similar sized laboratories in some of the stations, but this

is the principal laboratory where they make all their tests.

Q. Proceed.

A. Engine room: One Knowles combined duplex boiler feed pump, 18-inch stroke, special pattern, $440 without depreciation; $418 with depreciation. To this must be added item 4 under addenda, $400 without depreciation, $380 with depreciation.

Q. What is that item?

A. That is the Knowles combined duplex boiler feed pump.

Q. No, but it is item of $400 that you add? 21530

A. That is the cost of the pump, on account of it being made especially to the increased length of the stroke; the stroke was 18 inches long, and it was a special pattern made for the Consolidated Gas Company. My first valuation was on the normal standard of that pump.

By Mr. Mathewson:

Q. How much does that make all told for the pump then? Give it to us in a single figure.

A. That makes a total of $840 without depreciation, and $798 with depreciation.

By Mr. Page:

Q. Is that what it would cost to replace that pump? 21531

A. Yes, sir.

Q. Or is that what the pump cost to the Consolidated?

A. No, that is what the pump cost the Consolidated.

Q. You could probably replace it cheaper?

A. No, sir, I got this price from the Knowles Pump Works.

Q. As to what they charged them?

A. What they would charge for that pump today.

Q. Proceed.

A. One Blake combined boiler feed pump, $996 without depreciation; $946 with depreciation.

One Cameron pump, $302 without depreciation; $286 with depreciation.

220 cubic feet Connersville exhausters, $5,780 without depreciation; $5,753 with depreciation.

Two horizontal Buckeye engines, $6,182 without depreciation; $5,907 with depreciation.

Q. What is the horse power?

A. I haven't got the horse power down here. Probably in the neighborhood of 60-horse power—more than that—probably 75 to 80 horse power. 24-inch stroke that is.

21533 Q. Do you know how old those Buckeye engines are?

A. No, but I know they are in thorough condition, perfect in every respect.

Q. Proceed.

A. Three McKenzie exhausters, $5,100 without depreciation; $5,000 with depreciation.

Three 12-inch by 12-inch Rowland vertical engines, $3,642 without depreciation; $3,569 with depreciation.

Two ten-inch leather link belts, $275; no depreciation.

One ten-inch 4-ply leather belt, $85; no depreciation.

Two McKenzie oil gas exhausters, $2,660 without depreciation; $2,607 with depreciation.

21534 Two 6 by 7 vertical engines, $396 without depreciation; $388 with depreciation.

One Armington & Sims, 10½ by 12, $1,155 without depreciation; $1,132 with depreciation.

Three Buckeye horizontal engines, $12,144 without depreciation; $11,901 with depreciation.

Q. What is the horse power of those?

A. Probably 80.

Q. The same as the others then?

A. A little bit higher. The others were probably 75 and this probably 80, I don't know but these prices were gotten from the Buckeye people direct.

Three Sturtevant No. 16 blowers, $5,950, without depreciation; $5,831 with depreciation.

Two Cameron pumps, 14 by 7 inches by 33 inches stroke, $1,185 without depreciation; $1,126 with depreciation (refer to Item 5 in addenda).

By Mr. Mathewson:

Q. That was a special pump, I see. Does that mean special size?

A. That is a special size, yes, sir, on account of the stroke—33 inches. That is due to the fact that they are for so large a plant as this where the pumps and normal capacities and dimensions would not be sufficiently large and therefore they were compelled to have pumps of special stroke made to answer their purpose. 21536

One slate gauge board, $120; no depreciation.

Steam and water pressure gauges, steam exhaust and blast piping, $4,500; no depreciation. (See Item No. 6 in addenda.)

Three 22-inch 2-ply leather belts, 60 feet long, $396; no depreciation.

Item No. 7 of addenda for blast piping, $1,094; no depreciation.

Machine shop. Do you want that in detail or added together? 21537

By Mr. Page:

Q. Have you got the engine separate?

A. One Greenfield engine, 10½ by 12, $1,350 without depreciation, $1,310 with depreciation.

Q. You have something else there of $1,800, haven't you?

A. Three tons pulleys, cast iron countershafting, one-half ton fittings, and working benches and three vises, $1,800; no depreciation.

Q. Give the total for the machine shop if you have got it, including addenda.

A. Total for the entire machine shop, $5,935, without depreciation, $5,757 with depreciation, in which I included items 8 and 9 in the addenda.

Q. And also the engines you have testified to specifically?

A. And the engine, yes, sir.

Old retort house: Two stacks of 8 benches of sixes, 32 single benches, $70,720, without depreciation; $60,112 with depreciation.

Q. What are those used for now?

A. For the oil gas, for the production of oil gas.

21539 Q. Do you produce oil gas in benches?

A. Those are oil gas benches.

One Worthington duplex fire pump, $178 without depreciation, $170 with depreciation.

By Mr. Mathewson:

Q. You have something in the addenda there, 9?

A. I have got that in the detailed price already.

Two drip pumps, $150 without depreciation; $152 with depreciation.

Smith shop, $1,430 without depreciation; $1,376 with depreciation.

New shop buildings, entire contents, $835 without depreciation; $823 with depreciation.

21540 Old carbureter shop, in detail:

One English duplex air compressor, $2,750 without depreciation, $2,612 with depreciation.

1 Cameron pump 18 by 16 by 20 inches, $2,750 without depreciation, $2,612 with depreciation.

One Knowles pump, 20 by 18 by 24 inches, $4,140 with depreciation; $4,480 without depreciation.

Q. Those are all standard apparatus?

A. With the exception of the pumps they are all special patterns. Yes, all standard.

Q. The three are standard?

A. Yes, sir.

Two 5,000-gallon rectangular tanks, $240 without depreciation; $233 with depreciation.

Two 1,000-gallon rectangular tanks, $80, without depreciation; $77 with depreciation.

One steam trap, $50; no depreciation.

Retort house on 22nd Street.

Three salt water condensers, 45 feet 6 inches by 9 feet 5 inches by 16 feet, containing 653 3-inch diameter cast iron tubes, $92,120; no depreciation.

Q. Is that a special condenser?

A. Yes, sir.

One similar condenser, $30,700 which is now in the 21542
course of construction. No depreciation.

Q. How did you figure that cost?

A. Why, from the weight; I figured the weight of the condenser and multiplied it by 4.9 cents a pound.

Q. You did not take the actual amount that had been expended for it?

A. No, sir. I don't know anything about what they spent for it.

Generator house over machines six to thirteen; eight sets low water gas apparatus with 12-foot generators, 16 feet high; 11-foot carbureters, 16 feet high; 11-foot superheaters, 25 feet high; eight wash boxes, 4 feet high. Total price, $140,000; no depre- 21543
ciation.

Q. When were they put in, do you know?

A. No, sir, I did not inquire. They are in proper repair and perfect condition in every respect. Cast iron floors and columns surrounding machines, as per Item 30 in addenda, $47,520; no depreciation.

Two hydraulic elevators, $4,000 without depreciation; $3,800 with depreciation.

Q. Where there is any specially designed apparatus, in reading these off, would you mention them, to save time?

A. Yes, sir.

Two Cameron pumps, $170 without depreciation; $162 with depreciation.

Small gas piping, water piping, tar piping, etc., together with 600 feet industrial track, $279; no depreciation.

Add for industrial railway I omitted from schedule, as per Item 10 in addenda, $360, without depreciation; $342 with depreciation.

Building over boiler and coke storage house; two Babcock & Wilcox boilers, 500-horse power each, $16,500; no depreciation.

21545 Q. Do you know the age of those boilers, when they were erected?

A. No, sir, but they are in perfect condition and kept right up-to-date in the way of repairs, else they could not use them for the water gas production.

Two new boilers of 600-horse power each in course of erection.

Q. Do you mean foundations?

A. No, the foundations are finished and the boilers are being erected now. The boilers are right alongside of the foundations. $19,800; no depreciation.

Q. In this item, page 5, foundations going in for two more boilers, rated as 600-horse power each?

21546 A. That is my memorandum. The foundations are already completed and the boilers alongside the foundations.

Q. Then your estimate is for the foundations and the boilers in their present condition?

A. No, this is for the boilers alone, $19,800; no depreciation. That just happened to be copied that way from my personal memorandum so as to call my attention to it.

Two A. & T. boilers, Altman & Taylor, 500-horse power each, $16,500; no depreciation.

Q. Do you know the age of those boilers?

A. No, sir, but they are all in the same perfect condition and have to be in order to operate the plant.

Two steel stacks, 7 feet diameter by 110 feet high, $3,440; no depreciation.

Two breeches for above stacks, $887; no depreciation.

One additional stack, as per Item 11 in addenda about one-third of which is completed at the present time, $573; no depreciation.

Two Armington & Sims engines, 10½ by 12, $2,310, without depreciation; $2,194 with depreciation. 21548

Q. Do you know the age of those engines?

A. No, sir, I did not bother about the age of the engines because they are all perfect.

Q. Specially designed?

A. No, sir.

Two American Blower Company, fan blowers, $920 without depreciation, $902 with depreciation.

Three filter presses, Johnson & Company's make, $2,550 without depreciation; $2,422 with depreciation.

Q. Standard presses?

A. Yes, I think they are.

One centrifugal tar eliminator, $1,200 without depreciation; $1,140 with depreciation. 21549

One horizontal engine, 7 by 9 inches, $264 without depreciation; $250 with depreciation.

One round cast iron tank, 15 feet diameter, 12 feet high, $2,442 without depreciation; $2,320 with depreciation.

By Mr. Page:

Q. At what rate per pound?

A. At 5.8 cents per pound.

Q. For cast iron?

A. Yes, sir, that is with flanged and faced joints and bolts.

By Mr. Kirby:

Q. Upon what did you appraise the foundations for the boilers in building over boiler and coke storage?

A. The boiler foundations, as well as all other foundations, are included in my valuation for the buildings, and that unit figure which I spoke of before covers the foundations of these various apparatus.

Q. Proceed.

A. Two wrought iron tanks, 6 feet diameter, 4 feet 6 inches high, $153 without depreciation; $150 with depreciation.

21551 One wrought iron rectangular tank in ground, $695 without depreciation; $626 with depreciation.

Three No. 4 Cameron pumps, $825 without depreciation; $784 with depreciation.

2,000 feet industrial railway track, switches, crossings, turntables, and so forth, $1,700 without depreciation; $1,649 with depreciation, which includes Item 12 in addenda.

Q. Now, you come to the generator house?

A. Generator house on 22nd Street.

Five sets low water gas apparatus, 13 feet by 16 feet 6 inch generators, $100,000. No depreciation.

Q. Do you know the age of that Low apparatus?

21552 A. No, the same as the others; they are in perfect condition.

By Mr. Mathewson:

Q. Does that include the carbureters, superheaters, wash boxes and connections?

A. Everything called for by the schedule.

By Mr. Kirby:

Q. On this statement, down to where it says "one experimental oil gas machine"?

A. Yes, and that item above it.

Mr. Burr: What does that embrace?

The Witness: That includes carbureters, 13 feet in diameter by 16 feet 6 inches high; superheaters, 13 feet diameter by 32 feet high and wash boxes 7 feet diameter.

Mr. Mathewson: And twenty-four connections?

The Witness: Arranged for twenty-four inch connections, and connections between the various apparatus above named.

By Mr. Kirby:

Q. Proceed.

A. One experimental oil gas apparatus, $12,000. 21554
No depreciation.

Q. Is that a special machine?

A. Yes, sir.

Q. Is it in use today?

A. Yes, sir, it has been specifically constructed by the gas company for a specific purpose.

Six Hazelton boilers, 250-horse power each, $23,250 without depreciation; $22,088 with depreciation.

One Cameron pump 6 inches by 3 inches by 6 inches, $86 without depreciation; $82 with depreciation.

One Cameron pump 6 inches by 4 inches by 6 inches, $90 without depreciation; $85 with depreciation. 21555

One Worthington pump, 6 inches by 4 inches by 6 inches duplex pump, $92 without depreciation; $87 with depreciation.

Add for Item No. 30 and including gas, steam, water, tar and oil piping, $47,520 without any depreciation.

Q. What do you mean by charging stage?

A. That is the floor around the apparatus upon which the coal is stored and from which the apparatus are operated.

Q. Now, you have the retort house?

A. Retort house on 22nd Street. Twenty single benches of 6's, $44,200 without depreciation, $37,570 with depreciation.

Q. Do you mean by simple benches that they are separated one from the other?

A. No, that is only an expression to designate the length of the retort. They are set back to back, having a total length of 18 feet, but the price per bench is based upon 9-foot benches, therefore they are termed single benches.

By Mr. Page:

21557 Q. What are they used for?

A. For the making of oil gas, the same as the others.

By Mr. Burr:

Q. Is addenda Item 14 embraced in that item?

A. Yes, sir. There is one stack of 10 benches which consists of two benches back to back, making 20 in all.

By Mr. Kirby:

Q. Proceed.

A. For 40 enamelled iron wash basins and 180 expanded metal lockers, $2,420, no depreciation.

Q. Going back to those benches for a moment, you used a depreciation factor of 15 per cent, didn't you?

A. Yes, sir.

21558 Q. Over the entire cost of the benches?

A. From the entire value of the benches.

Q. Do you know when those benches were last replaced?

A. I have not the year down here, but on account of the settings having been in there a number of years, I made the depreciation 15 per cent.

Q. Do you know how many years they had been there?

A. I don't know, now, but on account of that item I make the depreciation 15 per cent.

Q. That would mean a life of how long?

A. Perhaps—these benches last very much longer than the coal gas benches, you know.

Q. I understand.

A. You cannot make a comparison on that basis because they are subjected to very different conditions.

Q. That is rather a high depreciation factor for them, isn't it?

A. No, not a great deal.

Q. You don't know whether any of them had been replaced in the last ten years, do you?

A. Yes, I know they have, without asking any ques- 21560
tion about it.

Q. You know that on account of the depreciation factor?

A. I know by my own experience, that they would not last ten years.

Q. They would not have to be replaced every three years?

A. No.

Q. Or five years?

A. No.

Q. Probably ten years?

A. Perhaps six to eight years, maybe in some in- 21561
stances ten.

Q. Well, go on.

A. Two tar separating tanks, a total of $4,340 without depreciation, and $4,123 with depreciation, from which deduct for Item 15, $965 for apparatus, without depreciation, and $897 for apparatus, with depreciation, making a total price for the two tanks, without depreciation, $3,375, and $3,226 with depreciation.

By Mr. Kirby:

Q. What did you deduct from the separator tanks?

A. On account of the difference in weights. In

measuring them over again, I found they did not weigh as much as I had originally estimated.

One Worthington duplex pump, $314 without depreciation; $299 with depreciation.

Two Cameron pumps, $880 without depreciation; $836 with depreciation.

One Cameron pump, $550 without depreciation; $522 with depreciation.

One Worthington duplex pump, $250 without depreciation; $237 with depreciation.

Two Cameron pumps, $170 without depreciation;
21563 $161 with depreciation.

One Cameron pump, $275 without depreciation; $261 with depreciation.

Q. Those pumps are all of standard design and build?

A. Yes.

Add, as per Item 16 in addenda, oil tank, 6 feet diameter, 10 feet deep, $189 without depreciation; $176 with.

Q. Those wrought iron tanks are used for what?

A. There is only one tank, 6 feet diameter by 10 feet.

Mr. Mathewson: He has not testified as to the
21564 others.

The Witness: That is in the addenda.

Q. Go on then.

A. You have an item there of 10 feet diameter by 30 feet long tanks in your schedule; that should be omitted. It has been substituted by Item No. 17 in the addenda.

Q. What is that item, will you read it?

A. It is ten tanks underground, 11 feet diameter by 39 feet 6 inches, 3 8-inch metal.

Q. What are those tanks used for, do you know?

A. For oil storage.

By Mr. Page:

Q. What is the capacity?

A. I have not got the capacity, but I can figure it out for you if you want me to.

Q. No, never mind, I thought you had it there.

A. Pump house—

Q. Haven't you left out some tanks?

A. I say those have to be omitted, those tanks, I think I said so just now. The new ones come in in the addenda.

By Mr. Mathewson:

Q. The substituted ones come later on in the addenda? 21566

A. Yes, sir

Pump house:

Two Worthington duplex pumps, $356 without depreciation; $338 with.

One Cameron pump, $550 without depreciation; $522 with.

One Blake duplex pump, $250 without depreciation; $237 with.

Two Knowles duplex pumps, $374 without depreciation; $356 with.

Two Cameron pumps, $170 without depreciation; $161 with. 21567

One Cameron pump, $385 without; $366 with.

By Mr. Kirby:

Q. Those pumps are all standard pattern and build?

A. Yes, all standard.

Two wrought iron tanks, $652 without; $620 with.

Q. Having a capacity of 3,750 gallons and used for the storage of oil?

A. Yes.

One Foster pump, as per Item No. 18 on addenda, $400 without depreciation; $388 with.

Two wrought iron tanks, $364 without depreciation; $345 with.

Sheds, Nos. 1, 2, 3 and 4; contents, coal not considered in valuation.

One hydraulic elevator, $2,100 without depreciation; $1,195 with.

Shed No. 5, firebrick and purifying material not considered in valuation.

One Cameron pump, 14 by 7 by 18, $467 without; $444 with.

One hydraulic elevator, $2,100 without; $1,995 with.

Q. Do you know who the builder of those hydraulic
21569 elevators was?

A. No, sir.

Q. There is nothing special about them, is there?

A. No, just ordinary plunge elevators, which you can buy from any elevator manufacturer.

One vertical boiler, $520 without, $478 with depreciation.

One accumulator as per Item 19 in addenda, $1,200 without depreciation, $1,196 with depreciation.

Q. Now, we come to the purifying house?

A. Purifier house, eight boxes, 22 by 36 by 3 feet deep with wrought iron covers, cast iron columns and beams, two sets of hydraulic lighting gears, and two
21570 36-inch center seals. Total value without depreciation, $62,799, with depreciation, $59,659.

By Mr. Page:

Q. What is the capacity of this purifier house?

A. All the purifier houses in the total are equal to the capacity of the plant of course.

Q. Are they operated with the relief holders?

A. Yes.

By Mr. Kirby:

Q. You have not figured separately the capacity of each of the separate houses?

A. No, sir.

Q. You figured this cost by taking the weight at so much, giving it a value of 5.6 cents a pound?

A. 5.6 cents a pound.

Q. And multiplying by the weight?

A. Yes. In the figures which I have given is indicated the Item No. 20 in the addenda.

Q. Which one?

A. Some additional weight. Do you want the total weight?

Q. Never mind.

A. Condenser and scrubber house. The first item, six tubular condensers should be omitted entirely, for 21572
which a deduction of $41,460 must be made as per item in addenda No. 21.

Q. Why do you omit that?

A. I have got them in twice.

By Mr. Mathewson:

Q. You have had it in twice, you mean?

A. Yes, sir. They were all considered in page 8 of my sheet; two scrubbers 14 feet in diameter, 35 feet high, $9,344, no depreciation, which includes Item No. 22 in the addenda.

By Mr. Kirby:

Q. Which was figured by weight and price per pound? 21573

A. All the apparatus was figured by weight and a price per pound, except where they were standard and I had to get prices from the various manufacturers.

Six condensers 30 by 7 by17; wrought iron sides, cast iron base, wrought iron tubes, containing 650 4-inch diameter by 12-foot tubes, $98,280; no depreciation.

Q. You used as your unit there 8.4 cents per pound?

A. Yes.

Q. How do you arrive at that figure?

A. The average price of the material for that condenser was 2.2 cents per pound.

Q. By average price of material you mean the average price for wrought iron and cast iron used in the construction?

A. Exclusive of the tubes; the cost of the tubes was 4.8 cents per pound; the average price for all material including tubes is 3.8 per pound, the freight and cravage is three cents per pound; shop labor two cents per pound; erection five cents per pound; makes a total of 6.6 per pound, to which is added for operating ex-
21575 penses wear and tear of shop of tools 10 per cent, making 66 cents; total, 87.26, to which must be added manufacturer's profit equal to 1.1, making 8.36 per pound, or a total of 8.4 cents per pound.

Q. And to that in the grand total you add 10 per cent for engineering and other charges?

A. For engineering by the gas company the designing and laying out of the entire plant and other expenses in connection with the construction of the entire plant as a plant.

Q. Or, if you were to construct it for them, which you would add for your own expenses?

A. Yes.

By Mr. Mathewson:

21576 Q. You assume that a contractor who puts in condensers figures on some profit to himself and does not simply figure on the work for the cost of labor and material?

A. No, I included 10 per cent in those figures that I mentioned.

By Mr. Kirby:

Q. And you have reckoned that a contractor would erect this apparatus for the figures which you have there?

A. Yes, sir.

Q. And would figure 10 per cent profit on the order?

A. Yes. As per Item No. 23 in addenda deduct $16,380.

Q. What for?

A. For one condenser in course of construction which is already included in the six condensers; it was included twice.

By Mr. Mathewson:

Q. Does that mean the total, $98,280?

A. No, this has to be deducted from that, and in my total it is taken care of, in my total price. 21578

Q. Which you have testified to?

A. Yes, that has all been taken care of.

By Mr. Kirby:

Q. So that the six condensers have a value of $98,280?

A. Yes.

Q. Where does your deduction come in?

A. Because in this I added a new condenser which was in course of construction, which would have been added twice, and it is in the six condensers already.

Q. Then there is no deduction to be made?

A. Oh, yes, from this price you have got to make a deduction of $16,380. 21579

Q. Then we will have the cost of the six condensers?

A. The cost of the six condensers complete including the new one which I added twice. I had first the six and then an extra one.

Q. In other words there are five condensers and then a new one making six altogether?

A. Yes, I had already the new one in twice. First I had six and then a new one.

One oil gas meter, as per Item 23½ in addenda, $3,850; no depreciation.

Shed: One hydraulic elevator, $2,100 without depreciation; $1,995 with depreciation.

Six shaving scrubbers, $18,232; no depreciation.

Galleries around shaving scrubbers, with mill exhauster, with vertical engine, dust collectors and piping, and one Cameron pump, $3,342 without; $3,301 with depreciation.

Another shed: Twelve purifying boxes, 24 by 24 by 17, with twelve wrought iron trunk-shaped covers, three 36-inch center seals; two hydraulic purifier carriages, $86,968, without depreciation, $82,620 with depreciation.

Q. What item have you added there?

21581 A. No. 24.

Q. What is that?

A. Additional weight, the first calculation being short.

Meter house: Two 13-foot station meters, $11,750 without depreciation; $11,162 with depreciation.

Two 19-foot station meters, with wrought iron cases, $21,600 for the two; no depreciation.

By Mr. Mathewson:

Q. That is, after deduction as per your addenda Item No. 25?

A. Yes, that is the corrected figure as per Item No. 25 in addenda.

21582 One 19-foot cast iron station meter, $10,800; no depreciation.

Q. Also, after deduction, as set down in addenda Item No. 26?

A. Yes.

One 16-inch Wylie proportion meter, $1,600; no depreciation.

By Mr. Kirby:

Q. They are standard meters, all of them?

A. These are not standard; they are a size not made of standard proportions.

Q. And therefore for which you have set down a special price?

A. No, I got that price from the meter company.

Q. They are built then by a meter company?

A. They are built by a meter company, but special dimensions, on account of this large capacity of the works.

Exhaust house: Two McKenzie exhausters, 30-inch.

By Mr. Burr:

Q. You have here three McKenzie exhausters?

A. The price is charged for two, $3,980 without 21584
depreciation; $3,900 with depreciation.

One 36-inch McKenzie exhauster, $2,200 without depreciation; $2,156 with depreciation.

Three Rowland 12 by 12 vertical engines, $3,300 without depreciation; $3,234 with depreciation.

By Mr. Kirby:

Q. Do you know how old those engines are?

A. No, sir; but they are all in perfect condition. Wherever I find a machine in perfect condition and up-to-date in operation—

Q. No matter what its age is?

A. No, I don't care what its age is.

Q. Nor do you care what the type may be? 21585

A. No, not as far as the condition is concerned. Of course, the type has a bearing upon the valuation.

Q. How did you get the prices for those Rowland engines?

A. By applying to them for the prices.

Q. And doing that you must have mentioned the type, did you not?

A. Well, it was the type, the Rowland engine is made by the Rowland Company.

Q. But there are different types from year to year: their type of 1900 is not identical with their type of 1906?

A. Oh, yes, no change in that. There may be some changes in a few small minor details which could not affect the price of them.

Now, 321 to 327 Avenue A, omitted from valuation included in real estate. Coal shed—

By Mr. Burr:

Q. What becomes of all these other items opposite to 327 and 331 Avenue A. One 5 horse power White and Middleton gas engine?

A. That is all included in the real estate. I don't know why that was, but it was telephoned to me.

21587 Mr. Mathewson: It meant the building not the apparatus. Just make a note of that.

The Witness: They are all very small items.

By Mr. Kirby:

Q. You are of the impression that these items are included in the real estate.

Mr. Mathewson: No, they are not.

Mr. Kirby: He has got it down here.

Mr. Mathewson: I know, but he is not under that impression.

The Witness: It would not amount to one thousand dollars the whole business.

Coal shed, containing one bucket elevator.

21588 Two 20-inch Robins conveying belts and two cross belts, $8,000 without depreciation; $7,200 with depreciation, to which item must be added as per Item 27 in addenda, $10,000 without depreciation, and $9,500 with depreciation, which item is for underground conveyor from dock to coal shed, conveyor trench and coal hoisting machinery at dock.

Q. What valuation have you put on your Greenfield vertical engine?

A. One Greenfield vertical engine 10½ by 12 inches, with pulley and shafting $1,155 without depreciation; $1,097 with depreciation.

Stable, included in real estate.

Water tower in yard, steel tank 20 feet diameter 30 feet high, value without depreciation $2,035, with depreciation $1,975.

In the retort house yard, steel tank 14 feet diameter by 9 feet 2 inches deep, $628 without depreciation; $565 with depreciation.

Steel tank 10 feet diameter by 9 feet deep $382 without depreciation; $344 with depreciation.

Steel tank 14 feet diameter by 4 feet 6 inches deep in lower portion, 13 feet diameter by 5 feet 6 inches in upper portion; $590 without depreciation; $530 21590
with depreciation.

Separate Item No. 28 in addenda, one new oil tank 57 feet diameter by 30 feet high; all material and on ground ready for erection, $3,000; no depreciation.

Q. This tank has a capacity of how many gallons?

A. I have not the number of gallons. It is 57 feet in diameter.

Q. Well, proceed.

A. Steel tank 7 feet diameter by 20 feet high; $655 without depreciation, $590 with depreciation.

A. Steel tank 20 feet 1 inch by 38 feet 1 inch by 8 feet 8 inches deep, $2,056 without depreciation, $1,850 with depreciation. 21591

Twelve steel tanks 8 feet diameter by 40 feet long, $1,808 without depreciation, $1,627 with depreciation.

Ten steel tanks 11 feet diameter, 39 feet 6 inches long, $16,795 without depreciation, $15,115 with depreciation. There has evidently been something omitted in the previous item of 12 tanks 8 feet in diameter by 40 feet long. I want to look whether my notes are right and whether it requires any correction. I will look it up tonight.

21592 Frederick J. Mayer, Cross.

Steel tank 10 feet diameter by 9 feet deep, $410 without depreciation, $370 with depreciation.

Separate Item No. 29 in addenda, one wooden tank 16 feet by 15 feet and one 12 feet by 15 feet high, $1,200 without depreciation, $1,176 with depreciation.

One steel tank 16 feet wide, 50 feet long, 2 feet 4 inches deep, $1,553 without depreciation, $1,475 with depreciation.

Q. Those tanks are all in use?

A. These tanks are now being erected for separating purposes. It is erected in place, complete on foun-

21593 dations.

Q. Which one do you mean?

A. The one 50 feet long.

Q. The other tanks are all in use?

A. All tanks are in use.

Q. For what purpose?

A. For separating purposes and storage purposes.

Q. That finishes the apparatus in the 21st Street station, does it not?

A. Yes, sir.

At 5:30 P. M., adjourned to August 31st, 1906, at 1 o'clock P. M.

21594

New York, Friday, August 31, 1906, 1:00 P. M.

Met pursuant to adjournment.

Present: The Master, Mr. Mathewson, Mr. Page, Mr. Burr.

FRED J. MAYER, resumed.

CROSS-EXAMINATION CONTINUED BY MR. PAGE:

Q. Do you wish to make any correction in your testimony of yesterday?

A. One item in the 21st Street plant: 12 steel 21596
tanks, 8 feet diameter by 40 feet long, should read $18,080 without depreciation, instead of $1,808, and $16,270 with depreciation, instead of $1,620. That makes the total value of the entire plant for buildings, apparatus and pipe connections, including the ten per cent for engineer's charges and five per cent for interest $3,392,895 instead of $3,375,984.

Now, about this other item I included in the real estate I went to the 21st—station and found that should have been in the schedule and not in the real estate.

By Mr. Mathewson:

Q. Those were the small items under what head- 21597
ing?

A. 327-331 Avenue A those houses. I tried to get the prices for these various items this morning, but the time was too short and I could not get them and I did not want to assume any prices.

Q. You need not bother about it further unless I ask you to, because the items are comparatively small.

A. It is not over $1,250 for all of it, but I did not want to assume any price because I did not in the rest of it.

By Mr. Burr:

Q. You said not more than one thousand dollars yesterday but you say $1,250 today.

A. Not more than $1,250.

By Mr. Mathewson:

Q. Would $1,250 be your estimate of the items there?

A. Yes, sir.

Q. That $1,250 you have not included in the total you have just given above?

A. No, sir; it is not included in it.

21599 By Mr. Page:

Q. The generating apparatus of the 21st Street station is practically new, isn't it?

A. Yes, sir; it is in a perfect condition.

Q. Well, I say it was put in, I think they testified here, in 1904?

A. Yes. It is in perfect, up-to-date, operating condition.

Q. What kind of a plant is it, what name does it go by?

A. It is an Improved United Gas Improvement Company's apparatus.

Q. Is it called a Lowe water gas—

21600 A. The original Lowe type, yes, sir, improved.

Q. Is that as efficient a water gas plant as is manufactured?

A. It is the best manufactured in this country, in my opinion.

Q. How does it compare with the Jerzmanovsky?

A. It is an entirely different process. Jerzmanovsky includes a system of benches in addition to the water gas generators to caburet the water gas in a continuous manner, whereas in this instance the gas carbureted is produced intermittently by the carburet

and superheater attached to generator and therefore an entirely different type of apparatus.

Q. The Jerzmanovsky is more economical in the use of fuel, isn't it, then the Lowe type?

A. No, sir, it is not. That is if you add the three sources of fuel consumption, consisting of generators, boilers and benches as compared with the two sources of fuel consumption in the instance of the United States Gas Improvement Company's apparatus which consists of the boilers and generators.

Q. Then, if Mr. Addicks testified in Boston that the Jerzmanovsky would save six pounds per thou- 21602
sand cubic feet of gas made over the Lowe type of apparatus, you would think he was mistaken, would you?

A. No, sir.

Q. Well, do you think it?

A. It would in that Boston instance, because that was an improved Jerzmanovsky and not the Jerzmanovsky as it has been used here.

Q. Well, of course, if you are building a plant today and that is what you are estimating on, you would put in the latest improved machine?

A. Then you could not call it a Jerzmanovsky. You asked me about a Jerzmanovsky. 21603

Q. I merely call it what Mr. Addicks did.

A. Well, he called it wrong. I happen to know that particular instance because I was the one that improved it.

Q. That is what I had understood.

A. Yes, sir.

Q. I had understood that was your improvement.

A. So, it was, that improvement, and that improvement was made in the generator by which a reduction of fuel of twenty-five per cent of the Jerzmanovsky was produced.

21604 Frederick J. Mayer, Cross.

Q. Then a plant installed with Mayer's improvement of the Jerzmanovsky generator plant would be a more efficient and more economically administered plant than this one at 21st Street?

A. With the latest improvements in the United Gas Improvements Company's apparatus the results are about on a par, amounting in both instances to about a consumption of 32 1/2 pounds average to the thousand feet of gas produced. Since I made the improvement in Boston the United States Improvement Company has made other improvements which has
21605 reduced their fuel consumption.

Q. Is this the apparatus that is used at 21st Street? Is it the latest improved U. G. I. Lowe process?

A. Yes, sir.

Q. And in its operation compares favorably with your improvement upon Jerzmanovsky?

A. Yes, sir.

Q. This substitution that was made of the improved U. G. I. Lowe process would save how much in fuel per thousand cubic feet of gas, you say?

A. As compared with what?

Q. As compared with the old process that was there before.

21606 A. The old process?

Q. That was there before 1904?

A. I think the fuel consumption in the old apparatus ran up to approximately forty pounds, and I think they have some results to show now in which the consumption is down as low as thirty pounds.

Q. Did you give the total value of this 21st Street plant?

A. I think I gave that already.

Q. You have given your estimate of the cost of the coal gas plant, per unit of capacity?

A. I believe I did in connection with the 18th Street valuation.

Q. And that was how much?

A. If I remember correctly I believe $340 per thousand feet.

Q. What is the value of a water gas plant such as this 21st Street per unit of capacity?

A. $123 per thousand cubic feet, not including any holders, which I excluded in all valuations of this kind.

Q. That is the coal gas plant which you valued at $340 per unit of capacity, which is for a thousand 21608
cubic feet of gas produced, isn't it?

A. Yes, sir.

Q. Excluding the holder value?

A. Yes, sir.

Q. And you say that $123 would be the value of the unit capacity of a water gas station similar to 21st Street?

A. Yes, sir.

Q. Excluding holders also?

A. Yes, sir.

Q. Now, we will take up the 44th Street station. The 44th Street station of the Consolidated Gas Company is a water gas station, isn't it? 21609

A. Yes, sir.

Q. And situated on 44th Street to 46th Street between 11th and 12th Avenues, in the City of New York?

A. Yes, sir.

Q. Will you state the capacity of that station?

A. 8,500,000 cubic feet in twenty-four hours.

Q. Now, if you will give the value of the buildings that you have already testified to as being upon the premises.

A. Governor house, without depreciation, $4,015; with depreciation, $3,815.

Q. And also state when built, if you can?

A. 1877.

Valve house, without depreciation, $3,041; with depreciation, $2,889. Built in 1877.

Carpenter shop, $3,465 without depreciation; with depreciation, $3,396.

Lumber shed, $1,771. No depreciation.

Purifier house, $60,668. No depreciation. Built in 1877.

21611 Oxide room, valued in purifier house.

Meter house and office building, $14,556, without depreciation; $13,828 with depreciation.

Condenser and scrubber building, $14,697 without depreciation; $14,403 with depreciation. Built in 1877.

Engine exhauster and blower house, $27,362, without depreciation; $26,815 with depreciation.

Generator and boiler house, $56,788 without depreciation; $53,949 with depreciation; built in 1877.

Retort house, $61,482 without depreciation; $58,408 with depreciation; built in 1877.

Coal hoist, $228. No depreciation.

21612 Concrete mixer and engine building, $475 without depreciation; $452 with depreciation.

Storage power tank building, $379 without depreciation, $342 with depreciation.

Oil pumphouse, $3,306 without depreciation, $3,141 with depreciation; built in 1877.

Tar separator system, $1,775. No depreciation. Built in 1904.

Coal shed, $46,661 without depreciation; $34,996 with depreciation.

Scale building, $275. No depreciation.

Water tower, $1,564. No depreciation. Built in 1877.

Exhauster and boiler house, $3,416. No depreciation. Built in 1877.

Lime and oxide storage shed, $7,207. No depreciation.

Purifier meter and storage house, $44,460 without depreciation, $43,571 with depreciation.

Stable, $11,121 without depreciation, $10,899 with depreciation. Built in 1877.

Tool shop, $2,563; no depreciation; built in 1877.

Storehouse, $1,541; no depreciation. 21614

Small brick building, $788 without depreciation, $749 with depreciation.

Sheds, $366; no depreciation.

Blacksmith shop, $1,418 without depreciation, $709 with depreciation.

Pipe house, $55; no depreciation.

Pump house, $44; no depreciation.

All brick walls around works, $47,160.

All timber fences, $2,860.

Shed at oil storage tank, $188; no depreciation.

Salt water condenser foundations, $489; no depreciation.

Hot gas scrubber foundation, $353; no depreciation. 21615

Air condenser foundation, $752; no depreciation.

Underground drainage tank in yard, $2,032; no depreciation.

Forced draft fan room, $122 without depreciation, $98 with depreciation.

That makes a total for buildings without the ten per cent for engineering and five per cent for interest charges, $407,767.

Q. I suppose you arrived at this result in the same

manner as you did with the others that you have testified to, you took the Kings County buildings as a standard?

A. Yes, sir.

Q. And multiplied the number of cubic feeet contents in these buildings by the unit that you obtained from dividing the cubic feet by the cost of the Kings County buildings.

A. Yes, sir, that is right. And I want to say in connection with this matter that in all instances where the buildings of the Consolidated Gas Com-
21617 pany differed from those at the Kings County Works, for instance in the construction of the foundations, where the foundations were deeper on account of the quality of the ground or where piling had to be resorted to in order to establish a proper foundation, those additions were figured extra because they form an extra consideration outside of the basis of comparison with the Kings County buildings, which were all based upon good ground.

Q. Where are the Kings County works situated?

A. I think it is at the foot of 55th Street in Brooklyn, on the water; it is right near the Edison Electric station or the powerhouse for the Edison
21618 station.

Q. Well, you mean it is on New York Bay?

A. New York Bay, yes, sir. And the ground there was splendid building ground, consisting of sand.

Q. Then you added something for the additional cost of foundation?

A. Wherever they differed from the conditions existing in those Kings County buildings, yes, sir.

Q. On what theory do you add ten per cent engineering charge to the construction of the building?

A. The ten per cent is on the total plant as such,

not on the buildings alone, but on the plant as a total. That, as I already explained, contains all those charges which every gas company will experience in building a new plant and includes also the alterations made in the construction or during the course of construction which are necessitated sometimes by additions and change in apparatus and improvements, and there is no contract of that kind executed where there is not always a very large extra bill to be paid by the gas company on account of these cases.

Q. That would not apply to the buildings, would it? 21620

A. Yes, sir, when you are making a change in your layout of apparatus it effects a change in the buildings and they have to be changed correspondingly, so the item of ten per cent includes that item as well as all others previously mentioned. And all these extras, the extra additions to the buildings in my estimate for charges in raw material were estimated in detail from conditions as I found them to exist at every one of these buildings, as near as I could ascertain them. Of course, I could not dig down and find out what the foundations were, but as near as I could ascertain it I took the description from the man who apparently had the information, and based upon that my detailed estimate. 21621

Q. But as you had in this case a plant before you that you were going to duplicate, there would not be any changes, would there, in this case? You say you are going to duplicate this particular plant.

A. Therefore, I had to include extra cost for these foundations, which were not included in my original figures.

Q. But you would not have to allow for any alterations, any changes of plan, because that had been

predetermined and forecordained, as to exactly what this plant was to be before you started.

A. That is so with all plants, they are always designed beforehand, and those changes take place during the construction when they see that improvements are necessary.

Q. But you could not in this case because you were going to produce the exact duplicate of this plant.

A. That is true, but the gas company had those expenses when they built the plant.

Q. But this gas company bought these buildings
21623 already built.

A. That I don't know.

Mr. Mathewson: Some company built them.

The Witness: Somebody built them.

Q. Now, we will proceed with the apparatus.

A. Governor house, entire contents, $1,655 without depreciation, $1,572 with depreciation.

Q. In this governor house I would like to have you state the kind of governor and what you valued that at.

A. Fifteen floor stands, $230.

One 24-inch Smith & Sayre governor, $1,275.

Gauges and furniture, $150. Making a total of
21624 $1,655.

Valve house, $50, without depreciation, $48 with depreciation.

Carpenter shop, $100 without depreciation, $95 with depreciation.

Q. Now, the purifier house, is that next?

A. Purifier house containing eight purifiers, 24 by 24 by 3 feet deep, with wrought iron covers, two layers of trays, 24-inch dry center seals; two hydraulic lifts for the steel covers and supports for the purifiers, $43,680 without depreciation, $41,496 with depreciation.

Lumber shed not included in valuation. See item 1 in addenda.

Meter house and office buildings: Two 14 foot by 14 foot station meters, with wrought iron cases, $11,750 without depreciation, $11,163 with depreciation.

Q. Does that include the foundations?

A. No, sir, the foundations of the apparatus, as I have already stated, are all included in the various buildings.

Q. Will you give me the values, by referring to any notes you have, of the foundations under these two 21626
buildings?

A. No, they are included in the units of prices taken from similar buildings in the Kings County works, where these foundations were included.

Q. I know; but whatever figure you used here.

A. They are in the unit price.

Q. I know; but you had to multiply that unit by something to produce this result for these particular foundations, didn't you?

A. No; the foundations for the meters were contained in the instance of the Kings County buildings, and therefore your unit price established by using the Kings County buildings includes those costs of 21627
the foundations.

One 16-inch Wylie proportional meter and one small meter, 24 inches diameter with 2-inch connections, $1,600; no depreciation.

Office furniture, $800 without depreciation; $760 with depreciation.

One bar photometer, $650; no depreciation.

Q. Are you an expert on office furniture also, Mr. Mayer?

A. No, I am not.

Q. Go ahead.

A. Condenser and scrubber house: Two scrubbers constructed of steel with cast iron base, 9 feet diameter by 21 feet 11 inches high, $3,575 without depreciation; $3,504 with depreciation.

Do you want me to read all the details in these different cases? I think you have them in the schedule?

Q. I think you had better read it in, as this is evidence and that schedule is not.

A. Two rectangular condensers, cast iron base, 30
21629 feet long, 6 feet 6 inches wide, 12 feet high, for 24-inch connections; $31,752 without depreciation; $29,530 with depreciation.

Q. All the apparatus you have testified to so far was put in in 1877, wasn't it?

A. Yes, sir.

Q. And on those rectangular condensers with cast iron base you took a unit price of 8.4 cents per pound?

A. Yes, sir.

Q. How much of that is wrought iron and how much cast iron?

A. Of the total I should say that the proportion of cast iron to wrought iron would be about as—

21630 Q. Well, I will ask the question in another way which will come to the same result and be easier to answer. What is your unit of value for cast iron, how much per pound?

A. For the cast iron, 1.65 cents per pound; that is for the melted material; freight .2 of a cent; drayage .1 of a cent; molding .45 of a cent; machine work .85 of a cent; erection and labor .6 of a cent; total, 3.85 cents. To which must be added an item for wear and tear and operating expenses, .39 cents, making 4.24 cents, and a profit for the manufacturer of 15

per cent, making 4.88 cents. The price applied for this part of the condenser is 4.9 cents per pound.

Q. Is 4.9 cents per pound the unit you have used in estimating the value of all the cast iron?

A. No, sir, it is not.

Q. Or does that apply merely to the condenser?

A. To the condenser works, yes, sir.

Q. And what unit did you apply to the wrought iron in this condenser work?

A. The total price of cast iron and wrought iron combined brings the unit price up to 8.4 cents per pound; that includes the tubes, the tubes being a very 21632
much higher class of material than the balance of the work.

Q. The wrought iron would be 3.5, would it not?

A. The wrought iron alone, do you mean?

Q. I want to know what your two units are, which made a total of 8.4 cents per pound?

A. In this instance there is a cast iron base and the total weight would have to be proportioned between the cast iron and steel work. The addition of the two unit prices would probably be in the neighborhood of ten cents, but the average for the total condenser is 8.4, which as I said before includes the cost of the tubes, which is higher priced material than the balance 21633
of the wrought iron. I presume that the weight of this cast iron is approximately 8 per cent of the total.

Q. You may proceed.

A. One Westinghouse No. 25 gas meter made by the Fuel Gas Manufacturing Company at Pittsburg, Pa., 24-inch diameter, 20 inches deep, $350, no depreciation. One Pelouze & Audouin revolving condenser with Smedberg improvement, $1,260 without depreciation, $1,197 with depreciation.

Q. Is that in use now that Pelouze & Audouin condenser?

21634 Frederick J. Mayer, Cross.

A. No, it was not in use when I was at the works.

Q. Do you know whether it is an abandoned apparatus?

A. No, sir, it is not. It is for the purpose of taking out tar by molecular attraction, and I presume it is only used in the winter time when they are making the coal gas.

Mr. Mathewson: It is the same form we are installing in Astoria now. It is not an out-of-date or unused type.

The Witness: It is a very important apparatus
21635 in its present condition; some very large ones are being applied in the Astoria works.

Q. Proceed.

A. Engine exhauster and blower house: Two vertical engines made by F. G. & A. E. Rowland; 12 inches cylinder, 12 inches stroke, 4 inches steam and 4 inches exhaust connections, 4 feet diameter and 5 inches wide flywheel; diameter of driving wheel, 20 inches, $2,175; no depreciation.

Two Payne engines, 14 inches diameter cylinder, 14 inches stroke, 5 inches team, 6 inches exhaust, flywheel 5 feet in diameter by 16 inches wide with counterbalance attachment on wheels; each engine has
21636 two driving wheels 60 inches in diameter by 12 inches wide; each engine has extra bearings for 6 inches shafting, $3,980; no depreciation.

One horizontal Buckeye engine, diameter of cylinder 14 1/4 by 14 inches stroke, 5 inches steam, 6 inches exhaust connection, two driving wheels 80 inches by 12 inches wide, $1,990; no depreciation.

Two McKenzie exhausters, 24-inch connections, 225,000 cubic feet per hour, $3,410; no depreciation.

Three No. 10 B. F. Sturtevant monogram blowers—

Q. Are those McKenzie exhausters?

A. Yes, sir.

21637

Q. Are some of these engine governors and compensators or machines that you have been reading before, in connection with this?

A. No, not in this instance, because they are not exhausters, they are all blower engines. And in the instance of exhauster engines you would of course have to have a governor to control the speed of the engine.

Q. Are there any engines included?

A. Not of that kind in this plant because it is a water gas plant.

21638

Three No. 10 F. B. Sturtevant monogram blowers, 12 inches by 12 inches driving pulleys, 24-inch discharge openings, $1,800; no depreciation.

One blast gate valve.

Two butterfly valves.

One steel blast flue with connections to boilers, $290; no depreciation.

One compound duplex Worthington pump with Detroit lubricators, size of diameter, 10 by 16 by 17 1/2, cast iron chamber, 6 inches suction, 5 inches discharge, 2 inches steam, and 3 inches exhaust, $670; no depreciation.

21639

One Davidson pump No. 10 with cast iron air chambers, 16 by 18 by 10 inches, 6 inches suction, 5 inches discharge, 2 inches steam, 3 inches exhaust, $772; no depreciation.

Engine exhauster and boiler house: One Knowles duplex pump 7 inches by 13 by 6 by 16 inches suction 6 inches discharge 5 inches, 2 inches steam, 3 inches exhaust, $656.

There is a depreciation on that but I have got several items added together in one lump, and the depreciation on all those is alike.

Q. You could just state that you have combined the apparatus in the engine exhauster and boiler house

and figure the depreciation from the total, and that that depreciation amounts to two per cent.

A. That only refers to those two items and not previous ones. Those are all right.

One Spencer automatic damper regulator, $250.

One McClelland oil purifier tank, $53.

One Gild & Garrison No. 4 pump, 8 by 4 1/2 by 10, $210.

One 10 by 16 by 18 inch Blake pump jet condenser, $650.

Counter shafting, pulleys, bearings, hangers, brack-
21647 ets, and so forth, $135.

The total of the above items from the Knowles pump down is $1,954 without depreciation; $1,915 with depreciation.

Generator and boiler house: Two 8 feet 6 inches United Gas Improvement Co. sets, $29,000, no depreciation.

Four 12-feet United Gas Improvement Co. sets. Each set consists of generator, carbureter, superheaters and wash boxes, each 8 feet 6 inches, one scrubber 8 feet 6 inches diameter by 22 feet high, one condenser, 8 feet 6 inches diameter by 22 feet high, $70,000. The twelve sets have three scrubbers 12
21648 feet 6 inches diameter by 22 feet high, $2,438. Total of the two above items, $72,438, no depreciation.

Q. Have you included the scrubber and condenser with the 8 feet 6 inches in set in the value of $29,000?

A. Yes, they are included, except in this instance the scrubbers were located outside of the building in a separate location. That is the reason they were estimated separately. In the above sets are included the necessary hot gas wells, water jacketed, generators and carbureters, necessary blast connections and also necessary generator, carbureter and superheating interlocking gears, oil heaters, gauge bolts and pressure gauges.

Q. I notice that the two 8 feet 6 inch sets you value here at $29,000?

A. Yes.

Q. Does that include the scrubber and condenser?

A. No, that was just the generating sets.

Q. Then you have stated separately the scrubber and condenser. Did you give any value to them, or is that included in the $72,438, taken together with the other sets?

A. Yes, scrubbers for the entire generators.

Four Hazelton porcupine boilers, 200 horse power each, 6 inch steam take-off, necessary pressure gauges, 21644
water columns, etc., in brick settings, $10,800, without depreciation; $10,044 with depreciation. To the above must be added item No. 3 in addenda, $2,400 without depreciation; $2,232 with depreciation.

Two hydraulic lifts, 5 by 5 feet platform, with overhead hydraulic cylinder, $4,000 without depreciation; $3,920 with depreciation.

Q. Where did you get that item that you add?

A. Item No. 3 in addenda, under the heading of generator and boiler house.

Cast iron charging floors surrounding water gas apparatus, $11,234; no depreciation.

Q. Now, this Automatic Gas Improvement Com- 21645
pany's sets and generators; they are the latest improved sets, the same as was installed in the 21st Street plant, or not?

A. Yes, they are all of the same type. That is, they are all modern sets all through.

Q. Those were installed in 1904, were they not, at 21st Street?

A. They were installed in 1894 and 1898.

Q. 1894?

A. That is what I have got down here, 1894 and 1898.

Q. Wasn't that before this improvement was made?

A. No, sir, the improvement was made since that time, but not of very big consequence. The principal improvement that they made was after the patent of the Wilkinson type of generator expired, and they adopted the reversal of steam, with one and the same generator and one and the same runner. That was previous to that time.

Q. These are the latest type?

A. Yes; there may be some minor differences in
21646 the operating gear made since that time.

Q. You may proceed.

A. Retort house: Two benches of sixes, back to back.

One floor fired furnace, $44,200 without depreciation; $39,780 with depreciation.

Q. Those are coal gas benches, are they not?

A. Yes, they were entirely reset in 1896.

Q. But they are water gas stations, they don't manufacture any coal gas, do they?

A. They can use those benches for the production of coal gas the same as the 21st Street station.

Q. Well, do they?

21648 A. They did not do it at the time I examined the plant, but I presume they do it in the winter time to get up their candle power.

Q. Candle power of what gas?

A. Of their water gas.

Q. Do you mean to say that you would enrich the water gas—

A. (Interrupting.) Mixture of water gas and coal gas; this gas may be taken from the 42nd Street works.

Q. It is arranged now for use as an oil gas generator?

A. Yes.

Q. There is no difference in the retorts that would be used for the production of water gas and those that would be used for the production of coal gas?

A. It is absolutely the same retort. All you have to do is to put a pipe inside of it, vaporize it and turn it out in the shape of gas instead of the coal.

Q. Is there any evidence of this having been done for that purpose?

A. I do not recall that exactly. It was not in use when I was there. I ascertained that that had been entirely reset in 1896, and that for that reason I made a depreciation of ten per cent. What I mean by ten 21650
benches of sixes is really twenty benches. They are made back to back the same as I said yesterday.

Two Altman & Taylor B. & W. type boilers, set in one battery, 200 horse power, with stack breeching boiler settings and steam piping, $7,637 without depreciation; $7,485 with depreciation.

Two Hazelton porcupine boilers, 200 horse power each, with stacks, steam pipes, etc., $5,500 without depreciation; $5,390 with.

To this item should be added, as per item No. 4 in addenda, $1,200 without depreciation; $1,176 with.

One No. 10 Monogram Sturtevant boiler, $600; no depreciation.

21651

One 10 1/2 by 12 Armington & Sims engine, with belting and fly-wheel, $1,210; no depreciation.

One No. 4 Garrison pump, 8 by 4 1/2 by 10 inches, $190; no depreciation.

One Berryman feed water meter, 2 feet in diameter 8 feet high, $195; no depreciation.

Air and salt water condensers: Two air condensers made by Logan Iron Works 33 feet long by 7 feet wide by 23 feet high, constructed of cast iron base with wrought iron flues, four flues to a section, 34 inches by 7 inches, each flue "U" shaped, 6 sections

in all, $14,550 without depreciation; $13,920 with depreciation.

One salt water condenser of cast iron in four sections 31 feet long by 5 feet wide by 15 feet 3 1/4 inches high, containing 704 3-inch diameter, 3/8-inch cast iron tubes, 11 feet 7 1/4 inches long, $10,290; no depreciation. Those condensers have been reconstructed lately.

By Mr. Burr:

Q. Give the size of connections?

A. That only refers to the connections; it don't in-
21653 clude any connections.

Air and salt water condensers: 1 salt water condenser constructed of wrought iron 33 feet long 5 feet wide by 15 feet high, cast iron base, 24-inch connections; 3-inch cast iron tubes 12 feet 4 inches long, $8,036; no depreciation.

By Mr. Mathewson:

Q. Was the one before cast iron, the one salt water condenser just above this?

A. That was all cast iron.

Coal hoisting apparatus, 9 by 10 feet Hunt single, 2 cylinder hoisting engine, 4 tubes, 1,100 pounds capacity, 2 cars, 3,300 pounds capacity, 2 counter
21654 weights, 1 trolley, 15,000 pound Howe platform scale, 120 feet of trestle 20 feet wide by 25 feet high, 240 feet of track on 4 inches by 16 inches timbers, 480 feet 4 inches by 6 inches timbers carrying rails, 480 feet of rail, total $8,037 without depreciation, $7,876 with depreciation.

Water tower, 1 Blake compound duplex pump, size 9 by 16 by 12 by 10, $1,831 without depreciation; $1,740 with.

One Worthington duplex pump 10 by 10 1/4 by 10, with gauges, piping and tools, $450 without depreciation; $423 with.

One 20 feet diameter by 20 feet tank, 3/8 inches by 1/4 inches steel plate, $1,333 without depreciation; $1,200 with depreciation.

Exhauster and boiler house: One 24-inch McKenzie exhauster, $1,705, no depreciation.

One 8 by 8-inch Greenfield reversing engine, $468. No depreciation.

Two vertical boilers, 3 feet diameter by 9 feet high, $410 without depreciation; $399 with depreciation. They were not in use when I was at the works.

Q. Have you any idea of whether they were ever used? 21656

A. Yes, they are used, I do not know for what purpose, but they are used.

Lime and oxide shed: One Knowles C. & F. W. duplex air compressor, 12 by 20 by 18 inches, $2,750. No depreciation.

Purifier shed: Four cast iron purifier boxes, 34 by 24 by 3 to 4 1/2 deep, with 24 by 4 inches cups arranged for 24 inches connections.

Four wrought iron purifier covers, trunk shape.

Two hydraulic carriages 26 by 24, 3-inch by 9 feet high, constructed of steel. The boxes in this instance are supported by brick walls. Prices for the brick supports are included in the price of building. 21657

One 20-inch high center seal.

Total $18,532 without depreciation; $17,606 with depreciation.

Meter house: One 14 feet diameter meter, wrought iron sides and head made by the Continental Iron Works, 24 inches connection, necessary gauges, water columns, and so forth, $6,300 without depreciation; $5,895 with depreciation.

To this amount must be added as per item No. 5 in addenda, $1,075 without depreciation; $1,022 with.

Two No. 7 Sturtevant boilers, dismantled, $400 without depreciation; $360 with.

21658 Frederick J. Mayer, Cross.

Three dismantled walking beam engines $1,150 without; $863 with.

These are ready for repairs, and I value them in their present condition as no repair parts had been delivered, therefore, in one instance the depreciation is twenty-five per cent and in another instance ten per cent. That is the present condition of the engines.

Q. Well, do you know whether they had been abandoned?

A. No, sir.

21659 Q. Or whether they are merely in process of repair?

A. Merely in process of repair, and as there are no repair parts there I could not include it. If the repair parts were on the ground I would consider it perfect, otherwise I could not.

Stable, 23 stalls, two box stalls, all constructed of hard pine timbers, and feed racks, $460 without depreciation, $437 with.

Tool shop, the total contents of tool shop is only $1,540 without depreciation, $1,463 with.

Store house and annex, that is only a small amount, the entire contents $420, no depreciation.

21660 Oil tanks underground, 13 tanks 18 feet by 30 feet, $11,578, three tanks 12 feet by 35 feet, $4,575. One tank 12 feet by 7 feet, $580. Total of the above tanks, $16,733 without depreciation, $14,232 with depreciation.

Tanks overground, one 8 feet by 30 feet, $890 without depreciation, $846 with depreciation.

Filter press house, one filter press, Johnson & Company, $850, no depreciation.

Tar and oil system, various tanks, total amount, $662, no depreciation.

Pump shed, total contents, $358, no depreciation.

Blacksmith shop, total amount for forges, anvils, shears, and punches, $319 without depreciation, $287 with depreciation.

Q. The last figures you gave, $319 and $287, related to all the contents of the blacksmith shop?

A. Yes, sir.

Power house, one Worthington Duplex, 10 by 10 1/4 by 10, $468, no depreciation.

One No. 10 Cameron, $360, no depreciation.

Oil tanks, No. 6 and No. 9, oil tanks in open, 40 feet diameter, 16 feet high, constructed of steel, set in circular pit, maximum capacity 150,000 gallons 21662
each tank, $9,750, without depreciation, $9,263 with depreciation.

Concrete mixer house.

One Sturtevant engine, 4 inches diameter, cylinder 6-inch stroke, $165 without depreciation, $157 with depreciation.

One concrete mixer, $400 without depreciation, $380 with depreciation.

(At this stage of the proceeding Mr. Kirby arrived.)

Q. What is that used for, that concrete mixer?

A. For mixing concrete for building purposes.

Q. That is some temporary affair, is it? 21663

A. Well, they move that around wherever they have to mix concrete when they are building something for themselves, from one plant to the other.

By Mr. Mathewson:

Q. For repairing?

A. Well, perhaps repairing and any kind of building they have to do, instead of spending manual labor for mixing that concrete they use this machine.

Q. I think some of the pillars are enclosed in concrete at some of the stations, by order of the fire department, to save the pillars in case of fire. If that had to be done we would have to use it?

A. Yes, sir, there are many occasions where they have use for this mixer, of course.

By Mr. Page:

Q. Proceed.

A. Storage tar tanks.

Three storage tar tanks constructed of wrought iron 8 by 8 by 7 feet 6 inches—

By Mr. Burr:

Q. You have 8 feet by 6?

A. 8 by 8 by 7 feet 6, carried on wooden beams set into ground, set inside of corrugated iron building, size of tanks 10 inches by 6 feet deep, two heads, total for the three, $1,848 without depreciation, $1,756 with depreciation.

21665

Oil pump house: Two steel oil tanks of 12 feet diameter, 7 feet high, and one 10 feet diameter 7 feet high, $1,218.

Two Davison single pumps 9 by 9 by 12 inches, $275.

Two Cameron pumps, 12 by 7 by 13, $314.

One Worthington duplex, 7 1/2 by 4 1/2 by 10, $197.

One Cameron No. 8, $314.

One Worthington duplex, 6 by 5 3/4 by 6, $128.

One Cameron No. 9, $325.

21666

Total of above tanks and pumps, $2,771 without depreciation; $2,633 with depreciation.

Tar Separator system: Constructed of wrought iron, 1/4 inch thick by 54 feet long, 15 feet wide, 6 feet 6 inches deep, with eight compartments, 8 3/4 tie rods and turn buckles, $2,250; no depreciation.

Scale house: One 10-ton scale, ball bearing platform, 13 feet 6 inches by 8 feet wide, set in brick pit, 12-inch walls, $300; no depreciation. That does not include the pit, of course.

False draft fan, one steel plate Sturtevant 3/4-

housed blower, directly connected to engine; size of fan 50 inches by 30 inches, $1,000 without depreciation; $950 with depreciation.

By Mr. Page:

Q. Did you figure in that brick pit at all?

A. No, that is in the buildings.

Q. Did you figure that in the buildings?

A. Yes, in the scale house. It is not in this price of $300. All the items of fire brick, fire clay, coke and coal, they are all omitted.

Q. They are not included within the inventory?

A. No, sir, they were included once but you will 21668
find an item in addenda No. 6, that this material is not to be considered in the valuation, but deducted. That was $11,715, which I deducted; it had been included first and then taken off again.

Q. What did you make the total amount of the value of the apparatus at the 44th Street plant to be?

A. $409,175, not including the charge for general engineering and interest charges.

Q. This capacity which you have given in regard to the 21st Street station and the 42nd Street station I presume is the same as you gave in reference to the coal gas stations and is the total maximum 21669
daily capacity at which it could be run continuously?

A. Yes, sir.

Q. And all parts of the apparatus are up to that capacity?

A. Yes, sir. I found in each and every instance that they could probably run a little over that capacity. In fact in some instances they have run over that capacity.

Q. This estimated capacity of yours is the capacity at which it could be run continuously?

A. Yes, sir.

2167 Q. And not what could be forced on special occasions?

A. No, sir.

Q. To carry a heavier load?

A. No, sir.

Q. Now, we will turn to the 99th Street station. The 99th Street station is a water gas station, is it?

A. Yes, sir.

Q. And a capacity of how much?

A. 5,500,000 feet.

2167 1/2 Q. Now, you may proceed with the buildings.

A. Engine house, boiler house, pump house, machine shop, retort and accumulator house, total value without depreciation, $96,162; with depreciation, $91,354. Built in 1881.

Generator house, without depreciation, $30,732; with depreciation, $29,807. Built in 1881.

Foundations for air condensers, $900; no depreciation.

Foundations for salt water condenser, $368; no depreciation.

Office buildings, $8,922; no depreciation.

Meter house, $10,039; no depreciation.

2167 2 Purifier house, $43,589 without depreciation; $41,409 with depreciation.

Lime house, $3,787 without depreciation; $1,984 with depreciation.

Valve house and drip pump house, $108; no depreciation.

Now, there are four valve houses, all of the same size, $513 each, without depreciation; $488 with depreciation.

By Mr. Kirby:

Q. What are those values for, for the house itself?

A. For the house itself, yes, sir.

Condenser and scrubber house, $10,185; no depreciation.

Exhauster house, $8,400; no depreciation.

Tar separator system, $1,775; no depreciation.

Pump pit, $624; no depreciation.

Tar storage, $128; no depreciation.

Coal shed, $21,600 without depreciation; $19,872 with depreciation.

Q. Is that coal shed a covered one?

A. Yes, sir, it is a brick shed, 125 by 46 feet and roofed. 21674

Filter press house, $408 without depreciation; $388 with depreciation.

All walls around the works, $15,710; no depreciation. They were rebuilt in 1895.

Fences. All fences around the works, $3,380, no depreciation.

Cover over doors of oil tank and ground, frame shed, $534; no depreciation.

Foundation under hot scrubbers in yard, $498; no depreciation.

That is all for the buildings.

Q. In estimating the value of these buildings substantially today, did you use any factor for obsolescence, or are they all up to date and none of them obsolete in type, or partly so? 21675

A. Some of them are in a perfect condition. All those where there was no depreciation allowed they are perfect in every respect.

Q. I mean if any of these buildings were to be constructed today for the purpose indicated, would you as an engineer construct them the same way as they are now built, or would you construct them in some other way?

A. No, sir, I see no reason to make any change for that particular plant.

Q. But for a plant of that capacity?

A. Yes.

Q. To have a plant of the greatest efficiency, would you construct them in this particular way?

A. For a plant of the same capacity, located on the same ground, I would construct the buildings in the same manner, in the same relative positions.

Q. In other words, if there were no buildings upon that plot of ground of any kind or character, and you were given an order to construct a gas plant of that capacity, that is, a water gas plant, you would con-

21677 struct these buildings in the same way and place them in the same relative positions as they are today?

A. Yes, sir.

Q. Making no changes of any kind?

A. None whatever. In connection with that I might say what I said formerly that every inch of ground space of all these plants is utilized to its utmost capacity and you can do no more than that in any well constructed plant.

By Mr. Mathewson:

Q. And there is no chance in these to increase the capacity now, so far as you can see, because all the space is already utilized?

21678 A. Not at all. There is not an inch left for any increase unless you go up in the air, which isn't practicable for gas works purposes.

By Mr. Kirby:

Q. Do you know on which of these two blocks of page 9, Exhibit 48, the various buildings are situated?

A. You mean do I know whether the buildings are situated on those two blocks?

Q. Which of those two blocks the various buildings are on?

A. Oh, I can't tell from memory now. I went all over every building.

Q. It is not indicated on your notes so you could inform us of it?

A. No, sir. The totals of all the buildings at the 99th Street plant, without the 10 per cent for engineer and interest charges is $248,247.

Q. You have not figured that ten per cent and five per cent on these separately, have you?

A. Only on the total result.

Q. The grand total?

A. Yes, sir.

By Mr. Burr:

Q. What was that other figure of $96,162 and 21680
$91,354 that you gave us?

A. $96,162 without depreciation and $91,354 with depreciation. That is for the engine house, boiler house, pump house, machine house, retort and accumulator house.

Q. What is this last amount you have given us?

A. It is the total of all the buildings.

By Mr. Kirby:

Q. Now, we will take the apparatus?

A. Generator house: 4 sets of 10 feet U. G. I. Lowe water gas apparatus with 24 inches gas take-off mains; each set consists of a 10 feet diameter by 14 feet high generator.

21681

Mr. Burr: Concretor, it is here.

The Witness: It should be generator; with three 19 1/4 inches diameter coaling doors, one 10 feet diameter by 15 feet 11 high carbureter with necessary water and oil connections.

One 10 feet diameter by 22 feet high superheater, with necessary superheater stacks, 36 inches diameter by 20 feet high, over all.

One 8 feet 6 inches diameter by 4 feet hot wash box.

These sets have necessary hot gas valves with

air jackets, also necessary generators, carbureters and superheaters, interlocking gears, from meters, gauge apparatus, coal guards and so forth. The apparatus, together with the surrounding charging floor is valued at $64,167, with no depreciation.

Q. What is the apparatus alone valued at?

A. $56,000.

Q. Being $8,167 for the charging floor?

A. Yes, sir.

Q. Do you know when that apparatus was in-

21683 stalled?

A. 1904.

Q. The old type?

A. Yes, sir.

Q. And the present type U. G. I. Lowe water gas apparatus?

A. Yes, sir.

Q. Why do you figure them altogether as one item?

A. Why that is the way the apparatus is furnished by the United Gas Improvement Company and I got this price from them; in fact they are the water gas purifiers for the various works.

Q. In other words, when you give specifications for

21684 a water gas apparatus, you generally include with it the other apparatus mentioned by you?

A. Yes, sir.

Outside of generator house. Air condenser. Construction of cast iron base—

Q. You may give those altogether.

A. Length of wall, 35 feet 7 1/2 inches width 11 inches.

Size of connections 24 inches.

$8,025 without depreciation; $7,615 with.

Q. Do you know the age of that construction outside of the generator house?

A. Well, I had it down here over twenty years, but there is a question mark around that because it was in such perfect condition.

Q. You have, therefore, only figured five per cent depreciation?

A. Yes, sir.

Q. Notwithstanding an apparent age of twenty years?

A. No, there wasn't any difference.

Mr. Mathewson: The witness says he is not sure that it was twenty years, the condition was so good, as I understand him. 21685

The Witness: I understood it was about twenty years, but the condition was so good I could not believe it.

By Mr. Page:

Q. Where did you get the information that it was twenty years?

A. From the superintendent.

Yard: Salt water condenser. Cast iron, 31 feet long, 4 feet wide, 15 feet 3 3/4 inches high.

668 tubes, 3 inches diameter by 3/8 inch, metal water tubes, 11 feet 7 1/4 inches long. Size of connections 16 inches. $10,045 without depreciation; $9,845 with depreciation. 21687

By Mr. Kirby:

Q. Do you know when that was purchased?

A. 1904.

Q. And erected at that time?

A. Yes, sir.

Office building, total contents, furniture, etc., $2,000, no depreciation.

Meter house: One 16 feet diameter station, $9,250, no depreciation.

One 13 feet 6 inches station meter, $6,350, no depreciation.

Q. I presume these have been installed some time?

A. The latter meter, 13 feet 6 inches, was just recently repaired and put in thorough condition.

Q. As was also the former?

A. I don't know when the former was last repaired, but it is in perfect condition.

Q. And they are built in the same manner as you would have built them if you were installing them today for the purposes indicated?

A. Yes, sir.

Purifier house, two sets of four purifiers, 21 feet
21689 by 20 feet by 3 feet deep, three layers of trays for each box; size of connections 24 inches; two center seals, diameter 6 feet and 5 feet deep; two hydraulic lifts for purifier covers, constructed of steel, size 15 feet by 22 feet. Total price without depreciation, $33,650, with depreciation, $31,970.

Q. Have you any knowledge as to how long this purifier house has been in use?

A. About 25 years.

Q. Still you used a depreciation factor of but 5 per cent?

A. Yes, sir, for the reasons stated before, that there is no depreciation except on the cover sides.

21690 Q. And it is of the same construction as if you were building a purifier house for the purposes indicated today?

A. Yes, sir.

Lime house, total contents, $100, no depreciation.

Valve house and drip pump house, $30, no depreciation. That is the same in the other valve houses.

Mr. Mathewson: The next two drip houses are $30?

A. Yes, sir.

Q. And the next two $30 and $30?

A. Yes, sir.

Valve and drip pump house, $30, no depreciation.

One valve house, $30, no depreciation.

One valve house, $30, no depreciation.

The next is valve house, $10, no depreciation.

Valve house, $10, no depreciation.

Condenser and scrubber house, two 10 feet diameter by 24 feet high, scrubbers of wrought iron; two 24 feet 3 inches long by 5 feet 2 inches wide by 50 feet condensers, cast iron construction. Three vertical tubes inside of same. Wrought iron scrubbers, $4,420.

Cast iron condensers, $15,680. 21692

Total, $20,100 without depreciation, $19,095 with depreciation.

Q. Do you know how long those scrubbers and condensers have been installed and in use?

A. About 25 years.

Q. Now, the exhauster house?

A. Exhauster house one McKenzie exhauster No. 15, $1,865.

One Greenfield vertical engine, 9 inches by 9 inches, $475, total $2,340, no depreciation.

Tar separating system in yard. Tank constructed of wrought iron 1/4 inch thick, 54 feet long 50 feet wide, eight compartments each 6 feet 6 inches. Eight 21693
3/4 inch tie rods with turn buckles, $2,250, no depreciation.

Q. They have been recently purchased, haven't they?

A. In 1904.

Pump pit: Two Knowles pumps, one 6-inch by 7-inch by 12-inch, $223; one 8-inch by 10-inch by 12-inch, $265.

One Davidson pump, 8-inch by 4-inch by 12-inch, $215.

One Cameron pump, 4 1/2 inch by 4-inch by 6-inch, $145.

Total, $848 without depreciation; $764 with depreciation.

Yard: Three tar storage tanks, wrought iron, 1/4-inch thick 8 feet by 8 feet by 8 feet, $750 without depreciation; $675 with depreciation.

Yard below ground: Twelve steel tanks, laid horizontally, 8 feet diameter, 40 feet long, with domes 30 inches by 36 inches, $16,267 without depreciation, $13,837 with depreciation.

Q. What are those tanks used for, do you know?

A. Oil storage.

21695 Q. There is practically no depreciation to them, is there?

A. Yes, sir, I figured fifteen per cent.

Q. When were they put in?

A. 1887.

Q. What does the deterioration come from?

A. Oxidation from the outside.

Yard below ground: Two oil storage tanks of steel laid horizontally, 8 feet diameter by 60 feet long with domes 30 inches by 36 inches, $3,848 without depreciation; $3,271 with depreciation.

Q. They were put in at the same time as the previous tanks?

21696 A. 1887, yes, sir.

Another yard below ground: One drip valve tank, 7 feet diameter, 25 feet long, $668 without depreciation; $602 with depreciation.

Coal shed: Two hydraulic lifts with 10 1/2-inch plunger, 24-inch diameter casing pipe, 24 feet long, platform 5 feet 6 inches by 7 feet, $4,200.

Two platform scales, 3 tons each, $300.

Total of the two items, $4,500; no depreciation.

Q. I note here, Continental Iron Works in parenthesis?

A. The lifts were built by them.

Yard: Two hot scrubbers of steel, 21 feet high, 8 feet 6 inches diameter, $1,625; no depreciation.

Q. Do you know when these were placed in the works?

A. 1904.

Q. They did not cost that then, did they?

A. They did not cost this in 1904?

Q. Yes.

A. Yes, just about the same I should say.

Q. Was steel as high in 1904 as it is today?

A. There is a little bit difference, perhaps, in steel in favor of the present time, but the labor is 21698
higher, so as to offset the difference in saving of cost of material.

Q. The cost of labor and material today would average about the same as it did two years ago for work of this character?

A. Very nearly, labor is a little bit higher.

Q. And material is a little bit less?

A. Material is a little bit less.

By Mr. Mathewson:

Q. You would not undertake to say exactly without investigation, would you, what the prices were in 1904?

A. No. Since 1903 the prices jumped so quick and 21699
varied so often that it is impossible to express a general opinion as to the exact value of material at that time.

Q. Without looking into it?

A. Without looking into it.

By Mr. Kirby:

Q. Since 1903 have they always jumped in the same direction?

A. In 1903 we were not able to make an estimate from one day to the other unless we had confirmed prices by the various mills within twenty-four hours,

the prices changed so quick that we were unable to make an estimate without getting the information specially.

Q. It is not so today, is it?

A. It is not quite so bad at the present time, but the tendency has been in the upward direction ever since the beginning of the year, for the price of steel.

Q. In making your estimates what prices did you use?

A. In which instance?

21701 Q. For your present appraisal?

A. For steel plates—

Q. As of what date were all those prices?

A. Today's date.

Q. Do you mean the first of August, 1906?

A. Yes, sir.

Mr. Mathewson: He does not ask you for the exact figure he asks you as of what date.

Q. You have stated that the prices even this year have jumped considerably in both directions, and I asked you as of what date you based your estimates?

A. Well, say August 1st.

Q. That would be a fair mean for all the prices you

21702 have stated?

A. Yes, sir.

Q. And you consider that that would not be greater than the prices of 1903 or 1904 in most instances?

A. I stated that the prices in 1903 and 1904 varied so quickly in a short space of time that we were not even able to make an estimate from one 24 hours to the next 24 hours without having the prices confirmed by the mills.

Q. The market settled down so it was pretty stable in 1904, didn't it?

A. No, I would not call it stable. It was better than

in 1903, but I would not call it stable. Prices were maintained at that time for a longer period of time than in 1903, but I should not consider them as being stable. I can give you the prices I estimated exactly.

Q. These scrubbers, were they put in in 1904?

A. Yes, sir.

Q. The company paid a certain price for them at that time.

A. Yes, sir.

Q. With your knowledge of prices of 1904, would you consider they paid more or less than your estimate at that time without considering depreciation? 21704

A. I said before that the prices for material were probably a little bit higher, but that the prices for labor at the present time are a little bit higher, so one offsets the other and there would be very little difference in cost.

Q. Would that answer be true for all classes of apparatus used in the gas works?

A. Yes, sir.

Q. So if you had made your appraisal in 1904 it would be approximately the same as it is today?

A. Yes, sir.

Q. Go on to the yard now.

A. Another item for yards, 2 hydrogen scrubbers, 8 feet in diameter 22 feet high, $1,560 without depreciation; $1,485 with depreciation. 21705

Q. I notice in parenthesis here "Out of Commission." What does that mean?

A. They are not used at the present time. There are a great many apparatus which are not used at the present time, because the production of the amount of gas at the present time does not require it.

Mr. Mathewson: Summer production, that has been gone all over.

Q. Take the engine house.

A. Two Sturtevant horizontal engines, cylinder diameter, 10 inches, stroke 12 inches, steam 3 inches, exhaust 4 inches, $2,045.

One Armington & Sims horizontal engine, cylinder 10 inches, 12 inches stroke, 3 inches steam, 4 inches exhaust, $1,225.

Each of the above engines have two 5 feet by 12 inches diameter wheels, speed about 300 revolutions to the minute. They are connected to three B. F. Sturtevant No. 10 gas blowers, 24-inch connections with 10 by 12 inches pulleys, speed about 1,286 revolutions.

21707 Value for blowers, $350. Two McKenzie No. 15 Exhausters with 20-inch connections $1,650.

Two Greenfield vertical engines, 9 inches by 11 inches, $3,726.

Two Knowles pumps, 6 by 4 inches by 7 inches—I gave $350 for blowers. That is for the driving wheels of the engine and the $1,650 is for the blowers, and $3,726 is for the exhausters, and $1,000 is for the Greenfield vertical engine. Now, add $210 for two Knowles pumps 6 inches by 4 inches by 7 inches, making a total in the engine house of $10,206, no depreciation.

Q. All of the contents of the engine house have

21708 been erected since 1900, haven't they?

A. Yes, sir, from 1900.

Q. And the prices you have given for engines, condensers, and the like in all instances are not merely the prices of apparatus, but the prices of apparatus set upon foundations?

A. Yes, sir, erected in place.

By Mr. Mathewson:

Q. That is so all through these schedules?

A. Yes, sir, erected upon foundations and placed.

By Mr. Kirby:

Q. The foundation value, however, is not included in the apparatus but in the buildings?

21709

A. All foundations are included in the buildings.

Q. We come now to the boiler house?

A. Boiler house:

Two batteries, B. & W. type boilers, Aultman & Taylor, Mansfield, Ohio.

Four boilers, 250 horse power each, total 1,000 horse power for two batteries, $18,750. They were erected in 1901.

Two batteries, 21 feet 9 inches deep by 19 feet 6 inches wide by 15 feet 8 inches long for each battery with a stack 5 feet diameter, 125 feet high, including the breeching, $2,386.

21710

Mr. Burr: Are there four batteries all together?

The Witness: Yes, sir. All the following items refer to the boilers.

One Sturtevant steel plate boiler, 5-foot wheel, direct connected to double upright enclosed engines, cylinders above shaft; size of engine 2 feet 6 inches diameter cylinders 5 inches stroke, $1,250.

One Gould & Garrison 8 inches by 4 1/2 inches by 8 inches engine, $175.

One Patterson & Berriman feed water heater, $265.

Total for all items in boiler house, without depreciation, $22,826. No depreciation.

21711

Q. These small items of tubing, 108 4-inch diameter tubes are included in your appraisal?

A. For the boilers.

Q. Have you separated them?

A. Yes, sir.

Carbureter house used as pump house, and machine shop. Do you want that in detail?

Q. No, you need not give the detail.

A. Total value of pumps, $3,900 without depreciation, $3,510 with depreciation.

By Mr. Mathewson:

Q. That includes the contents of that house?

A. That includes the contents in that building.

By Mr. Kirby:

Q. How do you figure your depreciation factor over that lot of machinery, did you take it for each one?

A. From my personal examination, yes, sir.

Q. You have only figured it on the total and not on each individual appraisal?

A. Well, I examined each and every one of them
21713 and in appearance they were all just about alike.

Q. So you used the depreciation factor on the total?

A. On the total for that house.

Pump house, total contents, $860 without depreciation, $820 with depreciation.

Q. You figured depreciation the same way there as in the other pump house?

A. The same way, yes, sir.

Retort house:

Eleven through benches of sixes back to back, $43,758.

Q. That is for 11 benches of sixes back to back?

A. Yes, sir. No depreciation. Now, these benches
21714 are just being rebuilt with all the new material on the ground.

Q. What have you figured on the new material that is on the ground?

A. No, I figured on the benches in complete condition. They are in a state of repair now, and will be finished before the fall.

Q. Is all the material there?

A. All the material is there.

Q. The labor is not there?

A. No.

Q. So you figured on labor which has, as yet, not been used?

A. I did in this instance.

Q. What proportion of the cost of those benches would be the labor as you figured it?

A. The total cost per bench would not be over $450 per bench.

Q. That would be how much for the benches?

A. $9,900.

Q. So you figure $9,900 in your total which is not there at this time?

A It is not there at this time because the work has 21716
not been completed.

Q. Because the labor has not been performed?

A. Has not been performed.

Q. The material on the ground, it is worth its value as material?

A. Yes, sir, but it is being placed in position now.

Mr. Mathewson: The labor to produce them before has been on the ground and is a part. There is merely a substitution. The labor is there if they have ever been built.

Mr. Kirby: Labor not as yet performed has not been there, and that he has figured at $9,900.

Mr. Mathewson: Labor has been performed 21717
in producing them originally, and this is merely replacement.

The Witness: It is replacement.

By Mr. Mathewson:

Q. Ordinary repairs in fact?

A. Yes, sir.

Mr. Mathewson: So the labor is there.

By Mr. Kirby:

Q. In the retort house you found 11 benches back to back in course of construction, didn't you?

A. Yes, sir.

Q. On those certain work had been performed?

A. Yes, sir.

Q. And certain material was there?

A. Yes, sir.

Q. Now, the material and the labor complete would amount to the estimate you have given, wouldn't it?

A. Yes, sir.

Q. The labor to be performed you have figured at $9,900, haven't you?

A. Yes, sir.

By Mr. Mathewson:

21719 Q. It is in course of repair, isn't it?

A. Yes, sir. I want to state this is a repair, the same as any other instance where we put new settings in the brick arches. The arches are there and the ironwork is there, and they are merely putting in new material to get ready for the next season.

By Mr. Kirby:

Q. But be it repairs or not, it is not there?

A. The labor is not there, but the material is there.

By Mr. Mathewson:

Q. Is not the labor there which produced it originally?

A. For the original construction, yes, sir.

21720 By Mr. Kirby:

Q. Where is the original construction?

A. The same as this was before it was taken out.

Q. Where is it now?

A. It was torn down by the gas company.

Q. Where is the original construction, is it standing there?

A. No, but the money for the building it has been expended.

Q. But the result is not there?

A. No.

Q. That for which the money was spent has been taken away?

A. Yes, to a certain extent, not all.

Q. How much is left?

A. The arches and ironwork.

Q. You have figured those, haven't you?

A. Yes, sir.

Q. In your appraisal?

A. Yes, sir.

Q. So what is left you have given a value to and included in your appraisal, haven't you?

A. Yes, sir. 21722

Q. And all that is there in the way of material you have included?

A. Yes, sir.

Q. And you have also included labor which is not there as yet, haven't you?

A. Yes, sir.

Q. And that labor is $9,900, isn't it?

A. Yes, on the repairs to the benches.

Mr. Mathewson: As a matter of fact, we lose so much capital every time we make repairs.

Mr. Kirby: That is a question for argument.

Mr. Mathewson: It is a fact.

Mr. Kirby: You cannot value a thing that you 21723 have not got.

Mr. Mathewson: He can have the labor that we put into it. You do not lose it when you come to repair it.

Mr. Kirby: The legislature may give a certain amount for my services, but I haven't got it yet.

Q. We will go on with the next item.

A. The eleven empty arches should be erased from page 4 of description of apparatus, 99th Street station.

The Master: These are not even marked for identification, so it is useless to refer to them.

Mr. Kirby: Under the circumstances I think it is all important that we read every item, if they are not exhibits in the case. In many instances we have taken lump sums for the whole contents of buildings, where the items have been less than one thousand dollars and there is no description whatever on the record what that apparatus is, unless these are in the case.

The Master: There has been no objection to having them marked for identification, and Mr. Mathewson wanted to put them in evidence. I
21725 suggested that they should be put in and the Senator thought, and Mr. Burr thought, and I supposed that you thought also, that it was better to have all these facts appear on the record in the examination of Mr. Mayer, and these typewritten memoranda were used simply for the purpose of convenience in questioning him. I suppose there is not the slightest objection to marking all of them for identification or even in evidence.

Mr. Mathewson: Not the slightest.

The Master: So do not raise a windmill and fight it. We have enough real trouble without it.

Mr. Kirby: I do not see any real reason why
21726 they should not go in as the basis of Mr. Mayer's appraisal, but we certainly want an opportunity to cross-examine as to his values. We have not the apparatus here to measure, but we have the values to cross-examine him on.

Q. Go on with the accumulator house.

A. Accumulator house—do you want that in detail?

Q. Yes, give it in detail.

A. One accumulator, 20 feet high, 6 and 8 inches long, 3 feet wide, diameter of plunger 12 inches, length of plunger 12 feet, size of base, 6 feet, 7 1/2 inches by 3 feet, connections 4 inches; the plunger is counter-

weighted by cast iron counterweights about 18-inch diameter.

The accumulator foundations consist of 12-inch I-beams, 16 feet long, set into building walls, $960; no depreciation.

One steel water tank, 10 feet diamter, 12 feet high, 1/4-inch metal set upon four 10-inch I-beams, 16 feet long, $351 without depreciation; $347 with depreciation.

One Davidson single pump, 14 by 8 by 14 inches, 6-inch section 4 inches discharge, $390 without depreciation; $370 with depreciation. 21728

Yard, wooden top tank, 24 feet diameter, full 2,000 gallons, $500 without depreciation; $375 with.

Filter press house, two Johnson filter presses, 15 by 2 feet 6 inches by 4 feet, $1,700, no depreciation.

One 10-ton Howe scale, $300, no depreciation.

Q. Those filter presses are recent construction?

A. Yes, sir.

Q. The same as in the other plants?

A. Yes. Miscellaneous tanks located in boiler house. Do you want that in detail?

Q. Yes, you better give them now.

A. One discharge tank 1 1/4 inches steel 4 feet by 3 feet by 4 feet. One boiler feed tank, 1/8-inch steel 6 feet 6 inches by 4 feet 6 inches by 9 feet 6 inches. Do you want those prices in detail? 21729

Q. No, the total.

A. One overflow tank, 1/4 inches steel, 5 by 7 feet 6 inches by 3 feet, one gas oil tank, 1/4 inches steel 10 feet 4 inches diameter by 10 feet. One fuel oil tank, 3/16 inches steel, 1,500 gallons capacity. One gas oil tank, 10 feet diameter 10 feet high. Total for all tanks, $1,282 without depreciation; $1,155 with depreciation.

Coal, oil, oxide and shavings, not considered in appraisement. Do you want me to include this item (in-

dicating), because that is referred to in your list and also in the addenda, or shall I leave it out?

By Mr. Mathewson:

Q. There is no use of giving that; say fire brick not included.

A. List of fire brick not included in valuation.

By Mr. Kirby:

Q. How about retort house?

A. That is addenda. We had that before. Total for all apparatus without 10 per cent engineering charges and 5 per cent for interest charges, $268,177.

21731 Q. Are there any buildings or apparatus in this plant or any other plant, besides those 11 benches in the retort house that we have been speaking of, that are in course of construction and on which you have figured labor that has not yet been performed?

A. No, sir.

Mr. Mathewson: These are not in course of construction. They are constructed and have been there a long time. They are merely in course of repair.

Mr. Kirby: Call it what you may, they are not as yet finished.

Mr. Mathewson: That is another proposition.

21732 Q. You examined all this apparatus yourself?

A. I did.

Q. And went over all these buildings yourself?

A. I did repeatedly.

Q. And you made no plan as to where the relative locations were between blocks 88 and 89th Streets, East River and Second Avenue, did you?

A. No, sir, I did not; there was no necessity for it. I made my schedules as to the apparatus right on the site of the same and measured the distances between them for my connections, put that down and from that made my measurements.

Q. Did you lay a plan down for the location of this apparatus?

A. No, there was not time to do that and there was no necessity for it.

By Mr. Page:

Q. The 18th Street plant is not now in use as an operating plant?

A. No, sir.

Q. And the building and apparatus that you examined and testified to on your examination in chief are remnants of a manufacturing plant, are they not?

A. Yes, with the exception of the holders, valve 21734
house—some of the holders and valve houses which are now in use for the distribution of gas.

Q. What portion of this plant would it be necessary to retain as a distributing station in connection with the holders that are there?

A. I do not understand that question exactly.

Q. I understand that this is now used as a distributing station and there are some holders and you said it had a valve house?

A. Yes, valve house, several holders, boiler house and exhauster house.

Q. I say, how much of this apparatus that is left there is necessary to be used for a distributing sta- 21735
tion?

A. All of it.

Q. Do you want a 90-horse power boiler to run that gas holder and your valves?

A. Yes, sir.

Q. Do you need a McKenzie exhauster?

A. Yes, that is a pump and comes from the other stations to fill the holders at this station.

Q. Then all are the matters of apparatus which you have given, and about the value of which you

have testified, apparatus that is actually in use for the purpose of distributing gas at that station?

A. Yes.

Q. Or is any of it what is left over from the manufacturing plant and not necessary for use in distribution?

A. All that is left now is required for the distribution. In my connections I have included only one single pipe from the exhausters to the holders; the rest are in some instances three and four pipes from the former plant, which have been included in my

21737 former valuation.

Q. Now, you may give the valuation of the buildings at this place for the purpose of distribution.

A. Five frame sheds; total for the five sheds, $145 without depreciation; $73 with.

Engine valve, and exhauster house, $5,678 without depreciation; $5,225 with depreciation.

Valve house, $1,523 without depreciation; $1,400 with depreciation.

Boiler house, $1,841 without; $1,693 with.

Stable, included in real estate schedule.

Shed, included in real estate schedule.

Dwelling, included in real estate schedule.

21738 Wagon shed and paint shop, $1,020 without depreciation; $970 with.

Wagon shed, $1,322 without; $1,256 with.

Brick and brownstone building used as inclosure for holders, $169,328 without depreciation; $155,784 with depreciation.

Q. What do you mean by that, that the holders are put inside of a brownstone front or not?

A. Well, there it is, a large building in which are located two holders as a protection for the holders against snow and inclement weather, and the man that has to go on top of the holder to clean it. It is an

old construction that would not be carried out in these days.

Q. It is absolutely useless, is it?

A. No, it is not absolutely useless. The building is there and contains the holders, and the holders are distributing holders.

Q. Well, I say the building does not serve any purpose. You say a holder will last forever if left exposed to the elements. Then what necessity is there for enclosing it in a brownstone front.

A. I would not build it today, but it was built in the days when they considered it necessary to have a 21740 building around it to protect it.

Mr. Mathewson: And it is not necessarily a brownstone front, Senator.

Mr. Page: He says it is a brownstone front.

The Witness: No, brownstone-brown trimmings around the windows and things like that. In Chicago the holders were enclosed up to the year about 1880, in very large circular buildings, and it has only since 1880 been abandoned; the use of those holders there, and the weather was very severe.

By Mr. Kirby:

Q. They do not enclose holders now where the cli- 21741 mate is severe, do they?

A. Yes.

Q. All over the world except in Canada and in England?

A. None enclosed in England and none in Canada.

Q. None in Canada that you know of?

A. Yes.

Q. Old construction?

A. Yes.

Q. No new construction?

A. No, sir.

Mr. Mathewson: It depends upon the section; there are some sections still using them and erecting them.

By Mr. Page:

Q. If you were erecting this plant, which I understand the company wishes to have valued and for which purpose you have been retained to testify, as to what you could produce this plant for today, you would eliminate this brick and brownstone building from any such estimate, would you not?

A. If I was asked to make a valuation of that now?

21743 No, I should not eliminate it because it is there and represents the value that I have given it in my schedule. I have valued everything that I found on the premises that was in actual operation or use.

Q. Have you got anything more?

A. Coal storage yards between 18th and 19th Street, value of all timber, fence and retaining walls without depreciation, $1,502; with depreciation, $1,352.

Coal storage yard between 17th and 18th Streets, timbers, fences and retaining walls, $2,160 without depreciation, $1,944 with.

Brick walls in yard between 17th and 18th Streets,

21744 $1,960, no depreciation.

Timber, coal hoisting trestle, $4,160 without, $3,744 with depreciation.

Holder yard between 18th and 19th, brick retaining wall, $7,500. No depreciation. That makes a total for all buildings, $182,901.

Q. Now, you might give us the plant that is in those buildings?

A. Frame buildings in holder yard: There are two vertical boilers and one locomotive boiler which are of no value and can only be considered as scrap, and I have not valued them.

Engine house and valve-house:

One 20-inch McKenzie exhauster, $1,584, without, $1,505 with.

One Greenfield engine, 8 by 10 inches, $440, without depreciation. $418 with.

Countershafting pulleys and belting, no depreciation, $80.

Three King's pressure gauges, $105, no depreciation.

One arch gauge, telephone booth, lockers, etc., $130, no depreciation.

One building containing pressure gauges; total 21746
amount $167, no depreciation.

Boiler house:

One horizontal tubular boiler, 90-horse-power 8 feet diameter, 15 feet 6 inches long; 2 feet diameter by 30 feet stack, total value without depreciation, $1,973; with depreciation, $1,815.

One small Worthington duplex pump, 4-1/2 by 2-3/4 by 4, $60 without depreciation, $57 with.

Pressure gauges, water columns, etc., $25, no depreciation.

Lockers, $50, no depreciation.

Stable:

Twelve stalls, $250, no depreciation. 21747

One box stall and lockers, $60, no depreciation.

Coal storage yard, trestle work consisting of A frame posts 40 feet high and A frame posts 50 feet high, each frame rests on two piles and 3-inch plank flooring over entire area; construction of A frame post consists of seven 50 feet posts made up of 12 inches by 12 inches diameter 50 feet long, and seven posts 40 feet high for coal carrier. The total value is $10,396 without depreciation, and $9,357 with depreciation.

Q. What is the storage capacity of that?

A. I could not tell you, that depends on the height to which they fill it. They have got six coal trestles with buckets running across the entire yard, and those buckets are nearly at an elevation of about 35 to 40 feet I should say.

Q. How large is the yard? Or, in other words, that coal storage is large enough for the storage of the coal that is used in the gas works when it is in operation, is it not?

A. Yes, and I should say it would not be less than
21749 —probably operated to full capacity—I should say two and one-half months' capacity. I can give you the lineal dimensions of the whole building that forms the coal storage, but I did not figure the planking; I took it all out because it was all rotten, so I did not figure that, but I can give you all the lengths.

Q. Is it used now for coal storage?

A. It can be used at any time.

Q. Oh, I know that, of course, you can pile coal on a vacant lot for that matter.

A. All the machinery is there.

Q. But the question is, is it used?

A. It was not used for such purpose when I ex-
21750 amined the plant.

Mr. Mathewson: He did not give the total of that apparatus.

Q. That was what I was going to ask him. What value do you put on the apparatus?

A. $14,019 total value of apparatus of 18th Street station.

Q. The total value of this plant excluding the holders at the 18th Street station is $192,920, is it?

A. No, sir, it is $218,907, excluding the holders and excluding the ten per cent for engineer charges and five per cent interest charges. We have not yet

accounted for or placed any value on the pipe connections.

Q. Well, you may value those pipe connections.

Mr. Mathewson: He stated that already, what they were, in detail, and their value.

The Witness: Yes, I gave it once before.

Q. For some purpose, there was a question on direct-examination, to mentally reconstruct these works and value them as reconstructed, and in doing so I believe you used the unit of $340 per thousand cubic feet of capacity?

A. That is right, sir.

21752

Q. And you stated that the reason you did that was because these works were owned originally by the same company that owned the 14th Street works and you thought that the same unit should be applied; is that right?

A. I did not say I thought they were owned by the same company.

Q. Didn't you?

A. I said that they were conducted along the same lines, with some considerable improvements at the 18th Street over the 14th Street on account of iron hoppers located alongside of the iron retort house, iron structures.

21753

Q. Did you state that on your direct-examination what you are now stating?

A. I think I did, to my best recollection.

Q. On page 1,381 of the testimony you were asked this question: "Q. Do you know that the 14th Street plant and the 18th Street plant were the property of the same company when the consolidation took place in 1884, do you?

A. Yes.

Q. Did you observe, as far as you were able to observe, any difference in the character of the plant

so far as the cost of plants were concerned? You say you took the same figures?

A. It was practically the same plant as 14th Street."

A. Yes, now if you will read a little bit further I think you will find I made that other statement.

Mr. Mathewson: Either to Mr. Kirby or to me he did; there is no doubt about that.

Mr. Page: Yes, here it is on page 1,382.

Q. The unit that you found by dividing the capacity on the 14th Street plant by the value that you gave excluding the holders, would be $327 and a fraction?

21755 A. Yes, about $327.

Q. $327.18, I figured it.

A. Yes.

Q. And for the increased coal facilities you added $13 to each unit of capacity?

A. No, sir, not for that reason.

Q. Well, for what reason did you do that

A. Because the 42nd Street plant, which was a 4-1/2 million capacity figured up to $330, indicating that the smaller the plant is the higher the unit must be in the same proportion,14th Street, being a five-million foot plant, and 42nd Street being a 4-1/2 million feet, and 18th Street in its original condition only

21756 being 3 1/2 million, the same ratio of increase in that unit would be $340.

Q. The figure that you have taken has been arrived at by a comparison of those particular plants, the 42nd and the 14th Street plants, dividing the value by capacity?

A. Yes, sir.

Q. It has not been based upon your experience as an engineer, as to what a coal gas plant should be valued at per unit of capacity?

A. Yes, it has. The valuation of the 14th Street and 42nd Street at $327 and at $330 is just about the

amount that works of that size cost today, and then I figured them and found that these prices were obtained, and I felt sure that that was about right.

Q. Then, as I understand it, a modern up-to-date coal plant with all the improvements that have been devised since these plants were built would be worth the same rate per unit of capacity?

A. Yes, as far as they refer to plants constructed in this country.

Q. Certainly, plants constructed in this country.

A. That makes a big difference.

Q. Oh, yes, I suppose it does. You have built a 21758
number of plants in Canada, have you?

A. Yes, sir.

Q. And you have built them in Havana?

A. Yes.

Q. And what unit did you use in Canada?

Mr. Mathewson: I object to that as immaterial. The conditions are not shown to be at all similar. If we get into matters of comparison and one thing and another we will never reach an end if we start in this way.

The Master: I will allow it.

Exception taken by Mr. Mathewson.

A. In the instance of Canada, it was a water gas 21759
plant, and could not be compared with this at all.

Q. You have never built any coal gas plants in Canada?

A. No, and in the instance of Havana it could not be compared, because climatic conditions are such that they require entirely different conditions from what they do in this country.

Q. Where else have you built coal gas plants in the eastern part of the United States, except in the city?

A. The Kings County plant was a coal gas plant in its first construction.

21760 Frederick J. Mayer, Cross.

Q. How long ago was that?

A. 1899, that was the last coal gas plant.

Q. What was the capacity of that plant?

A. At that time it was a million and a half, with buildings arranged for duplication, arranged for three million of coal gas and one and one-half millions of water gas, if I remember correctly.

Q. Its capacity as you constructed it was one and one-half millions?

A. With the buildings arranged for three millions.

Q. What unit of capacity did you figure that on?

21761 A. I have not figured that at all. That would not apply in this case because the apparatus was not the full capacity of the buildings. I just know from my engineering knowledge that the coal gas plant averaged about that price per thousand feet of producing capacity.

Q. You have stated that the unit of capacity of a 3,500,000 cubic feet plant is $340, the unit of a 4,500,000 plant is $330, and the unit of a 5,000,000 plant is $327?

A. Yes, sir.

Q. Now, does it progress in equal ratio? What would be the unit of a 9,500,000 coal gas plant?

21762 A. No. There would be a change in ratio when you would get above or below a certain capacity.

Q. What is that capacity where the unit becomes at its lowest and then begins to increase?

A. This ratio I have applied would probably be correct for works from 3,000,000 to 5,000,000 feet per day.

Q. Which ratio? You applied more than one here?

A. Well, the ratio between those three.

Q. Now, what is it between 5,000,000 and 6,000,000?

A. Between 5,000,000 and 6,000,000 would probably be in the neighborhood of $315. Where you advance a little below the capacity of 3,000,000 you would probably run up to the neighborhood of $375 to $400. When you get to the small sized plants it increases very fast.

Q. We are dealing in large plants, though here. Now, haven't you a regular table which you use in estimating the value of plants per unit capacity?

A. No, sir, and such a table cannot be made. There are sufficient differences in the various plants in the details of construction so that the table would be of 21764
no value except a total average for the entire value of the plant.

Q. Where does the ratio become stationary before it rises again? You say that it rises after a while as the plant gets larger. Take the seven million daily capacity, what would that be? Figure on that?

A. I don't say that the ratio becomes stationary. It is changing continuously but the rate of change alters. The rate of changes is not the same.

Q. Well, give us what you estimate a 7,000,000 cubic foot daily capacity coal gas plant at?

A. You mean under conditions as built here now without any of the latest apparatus for purification? 21765

Q. No, I want an up-to-date plant. You would not build anything but an up-to-date plant today, would you?

A. Well, I made the remark before that there is a difference between this and other countries as to up-to-date plants.

Q. Take this country.

A. It is a common thing in this country to include those things in an up-to-date plant. Purification and bi-product plants depend upon the development of chemical industries in this country and when we have

them we have to build our plants as in Europe and they run up to $400 easily.

Q. Which is $400, the plant in Europe where they have cyanide bi-product recovery?

A. Yes, sir.

Q. And certain other bi-product recoveries which we do not recover in this country?

A. At present.

Q. Let us eliminate the things obtained in Europe which do not obtain here, and give us an up to-date American plant as you would build it in this coun-

21767 try.

A. Without the differences I mentioned just now, for 7,000,000 capacity?

Q. Yes, do not put in anything you would not put in in this country.

A. I cannot give you that exactly. Those are approximate values. There is no fixed basis upon which you can value that except by comparing with these other plants. I cannot estimate the plants in a moment offhand. Here are positive data which I figured in detail and that is as good a comparison as you can get; there are absolute facts.

Q. Well, give us ten million?

21758 A. I cannot do it offhand.

Q. Why not?

A. Because I cannot. I will have to refer to some figures.

Q. Didn't you figure the capacity of the horizontal retort unit, as you might call it, at Astoria, and isn't that a ten million cubic foot daily capacity?

A. That would only be a portion of the plant. The retort unit would be a portion of the plant.

Q. I say did you figure on nothing but the retorts over there? Did you figure on the entire plant?

A. No, I did not.

Mr. Mathewson: Oh, no, a very small part of it.

The Witness: These comparisons cannot be easily made.

Q. You have nothing by which you could make such a comparison?

A. Oh, yes, lots of it.

Q. Well, value it?

A. You have got to give me time to investigate my figures and refer to my records. I cannot do it now. I believe I have more figures of the cost of coal 21770
gas plants than any other engineer in this country.

Q. But you never before figured on this per unit of capacity with the value of plant?

A. Oh, very frequently, after comparing in a general manner, and the plants vary from $350 to $400; others about $325. It depends on the details of construction; one costs a little more than another; but here is an absolute comparison between plants similar in construction, and you could not get a better basis of comparison than those I have applied here.

Q. Have you sometimes figured as low as $300 for a limited capacity?

A. Well, I do not figure it at all except for gen- 21771
eral comparison. I do not believe any coal gas plant can be built for $300. I don't think any of them would be less than $330 or $340 or $350 in capacities of from three million to five million.

Q. It would cost less per unit of capacity to build one coal gas plant that would produce 9,500,000 cubic feet, wouldn't it, than it would to add together these two, 14th Street and 42nd Street?

A. Oh, yes. You mean in one plant?

Q. Yes.

A. Yes, sir.

Q. How much less per unit of capacity?

A. I cannot give you that information unless you give me time to look over my figures. It is impossible to give that at a moment's notice.

Q. Well, can you give it approximately?

A. I would depend on the details of construction. They may vary from $350 to $400. It depends on what the plant contains.

Q. You have been building gas plants in your mind
21773 right along. Supposing you build one in your mind that would produce 9,500,000 daily capacity?

A. No, I would not say that offhand. I am not accustomed to give figures that way. From an engineer's standpoint it is necessary to refer to records and data to be correct, and I do that in all my calculations, and I won't give any offhand figures.

Q. You gave as a unit of value for a water gas plant $123 per unit of capacity, excluding holders?

A. Yes, sir.

Q. Is that subject to the same fluctuations and limitations as the figures on the coal gas?

A. Not as much, for the reason that there is not
21774 as much difference in the apparatus and value of the apparatus; secondly there is not the same chance for the same variation as there would be in a coal gas plant.

Q. Then you think that would be a fair unit to assume on the value of the water gas plant, no matter what the capacity might be?

A. Yes, I think that is right.

By Mr. Mathewson:

Q. That is excluding the holders?

A. Yes, sir.

By Mr. Page:

Q. All these figures are exclusive of holders?

A. Yes, sir.

Q. There seems to be something of a fluctuation in the value you have given of your three water gas plants here: The 44th Street plant would seem to be $114 per unit of capacity, the 99th Street plant, $119.50 and the 21st Street plant $125.

Mr. Mathewson: $123, isn't it?

The Witness: Wouldn't that be $124 instead of $114 in 44th Street?

Q. Well, will you give what is right, if that is not right? 21776

A. Well, I make it $124, not $114.

By Mr. Mathewson:

Q. For what?

A. For the 44th Street plant.

By Mr. Page:

Q. And $120 for the 99th Street?

A. $120, yes, sir.

By Mr. Mathewson:

Q. How much for the 21st Street plant?

A. $123.

By Mr. Page:

Q. What did you give as the total value of the plant without holders? The entire plant you have got there, haven't you? 21777

A. Which plant?

Q. All of them. Haven't you got it in one sum?

A. All the plants, yes, sir. The total value of all the plants is $11,991,404, without holders.

By Mr. Mathewson:

Q. Does that include everything but the holders?

A. That includes everything except the holders, and the original 18th Street plant.

By Mr. Page:

Q. It would be possible, would it not, to construct as one works, a coal gas plant, that would produce 9,500,000 cubic feet today?

A. Oh, yes, sir.

Q. And a water gas plant that would produce 41,500,000 cubic feet per day, wouldn't it?

A. Yes, sir.

Q. And if you construct a coal gas plant of 9,500,000 cubic feet per day it would be proper and it would be ample allowance, wouldn't it, to multiply
21779 that by $3.15 for instance of capacity?

A. That is a unit of $3.15 per thousand cubic feet.

Q. Yes, that ought to give you—

A. $3.15?

Q. Yes, $3.15.

A. No, sir.

Q. What figure would you use?

A. Well, I said before I could not tell. It depends largely upon local conditions. You cannot average that.

Q. Well, it would not be more than $3.27, would it? That is what would produce a five million capa-
21780 city—it certainly would not be more than that?

A. You mean $3.27 or $327?

Q. Oh, $327, I mean, for a 9,500,000.

A. On the valuation of plants of large size in that matter I would prefer not to make any positive statement until I can examine my records of cost. Cost of larger sized apparatus in proportion to the capacity is of smaller cost than smaller sized apparatus, and I would not like to state offhand what that would amount to and the total cost unless I examined my records.

By Mr. Mathewson:

Q. Did you not have to have some special construction for such a plant which would be more costly than the standard construction?

A. I said before it would depend upon the local conditions. It is very bad to compare one plant with another which is not of the same detail of construction. Here I have made values of the same detail of construction and you could not get a better comparison then as I have made here.

By Mr. Page:

Q. If you were called upon to construct a plant 21782
for the use of the Consolidated Gas Company, today, would you scatter the works around as they are here?

A. No, sir, I certainly would not.

Q. The works divided into five manufacturing stations require a much larger investment in plant, do they not, than it would to bring them together into one station?

A. Decidedly.

Q. And also the cost of operation is very much more in the scattered stations than it would be in the one station?

A. Yes, sir.

Mr. Mathewson: This witness has not oper- 21783
ated plants, I don't think he should be asked that.

Mr. Page: He may know more about it than some people who have operated plants.

Mr. Mathewson: Possibly, but he may not know as much about it as some who have operated plants.

Q. Now, you may give the values of whatever apparatus and buildings are in the different distributing stations. The first is 63rd Street?

A. It is divided in the same manner, building, connections, apparatus and holders.

Mr. Mathewson: He has described the buildings already.

Q. Give it in the same way as you gave it in the operating stations.

A. Engine room, total value of buildings, $1,023. No depreciation.

Valve house, $870. No depreciation.

Boiler house, $960. No depreciation.

Brick walls around property, $8,576. No depreciation.

Total value of all buildings, $11,429.

21785 Engine room:

One 30-horse-power Morris engine, 10 by 18, reversible, without depreciation $1,430; with depreciation, $1,287.

One Sturtevant exhauster with steam and exhaust connections, countershafts and pulleys and gauges, without depreciation, $750; with depreciation, $735.

Valve house:

One photometer, $650, no depreciation.

Boiler house:

One 66-inch by 16 feet Continental Iron Works boiler, $1,250 without depreciation; $1,125 with depreciation.

21786 One Simplex Blake pump, 10 inches by 6 inches, $350 without depreciation; $340 with depreciation.

One Metropolitan injector with pressure gauges, pipe connections and firing tools, $45, no depreciation.

In the yard:

One duplex pump 12 by 6 inches $330 without depreciation; $314 with depreciation.

One drip water tank with 2-inch pipe connections, $350 without depreciation; $332 with depreciation.

Total of all apparatus, $4,828.

Q. You may give the value of the connections.

A. Twenty-four to thirty inch pipe, $6,960, no depreciation. That is cast iron pipe.

1 1/2 inch and 2-inch iron pipe, $18. No depreciation.

24-inch and 30-inch valves, $909.

Total for all connections, $7,887.

Q. There is one holder there, is there?

A. Yes, sir, one holder.

By Mr. Mathewson:

Q. And that you already valued?

A. 3,000,000 cubic feet capacity, yes, sir. 21788

The steel work for the entire structure is $152,355.

The retaining wall, $11,090.

The brick tank constructed in rock, $256,922.

Making a total for the holder of $420,367.

Q. Describe the holder?

A. The holder is constructed in three lifts with an outer section of 184 feet in diameter; the guide frame consists of 24 steel standards, 122 feet in height. The tank is supplied with two 30-inch connections, that is, one inlet and one outlet.

Q. And you estimate the price at 7.1 cents per pound?

A. Yes, sir. It includes a permanent timber frame 21789 for the support of the crown of the holder, based upon the weight of the steel.

By Mr. Kirby:

Q. The tank erected in 1899 and weighs—

A. The tank was erected in 1899 and weighs 2,258,759 pounds. That is all for that station.

Q. What pressure is there on this holder?

A. Nine inches when totally inflated, all sections.

Q. When all sections are cupped?

A. Yes, sir.

By Mr. Page:

Q. Now, take the 65th Street? You have described the buildings already; just give us the values now.

A. Engine and valve house, $2,688 without depreciation; $2,016 with depreciation.

Exhauster house, $12,350 without depreciation; $11,732 with depreciation.

Boiler house, $3,058 without depreciation; $2,906 with depreciation.

All walls around the property bounded by Amsterdam and West End Avenues, 65th and 66th Streets.

21791 By Mr. Mathewson:

Q. You have given the total feet and about the average height?

A. Yes, sir, I gave the sections of walls already, $33,677.

By Mr. Page:

Q. And those were erected in 1866, were they? I mean the buildings?

A. That one building was, I don't know about the others.

By Mr. Mathewson:

Q. What building?

A. The first building, engine and valve house. I

21792 suppose there was a portion of those walls erected at that time, and a large portion of it later as they extended the plant. That makes a total value of buildings of $51,183.

The Witness: Apparatus in engine and valve house.

One beam engine, 6 inches by 18 inches with steam and exhaust piping, $400 without depreciation; $340 with depreciation.

In the exhauster house, one 12-inch by 12-inch Rowland vertical engine, with steam and exhaust piping, $1,115.

One 30-inch McKenzie exhauster, with gauges and connections, $1,758, making a total of $2,853 for the two items without depreciation; $2,796 with.

One photometer, furniture and plumbing, $1,150 without depreciation; $1,000 with depreciation.

Boiler house, two horizontal tubular boilers, 48 inches by 10 feet, $2,566.

One horizontal tubular boiler, 48 inches by 12 feet, in brick settings, $1,370, making a total for the two items of $3,936 without depreciation; $3,740 with depreciation.

One No. 2 Niagara feed pump, $60 without depre- 21794
ciation; $57 with depreciation.

One No. 4 Korting injector, $40 without depreciation; $38 with depreciation.

One steel stack with connections, $180 without depreciation; $171 witht depreciation.

Boiler house extension, 66 inches by 14 feet tubular inside firebox boiler complete, $2,078 without depreciation; $1,975 with depreciation.

One No. 5 Korting injector, $45 without depreciation; $42 with depreciation.

Total value of all apparatus, $10,159.

Connections, 16 and 30-inch cast-iron, $12,528; no depreciation. 21795

One 1 1/2 and 2-inch wrought iron pipes, $128; no depreciation.

30-inch valves, $3,427.

16-inch valves, $244.

Total of all valves and connections, $20,406.

By Mr. Page:

Q. Do you take a unit of value for your pipes and valves, as you did in the other apparatus?

A. The valves are all estimated in detail, so much apiece, according to the size of same.

Q. How about the pipe?

A. And the pipe is figured at the unit of value depending upon the diameter for same, for cast-iron and for steel pipe.

Q. At what price per ton did you charge for this cast-iron pipe?

A. $116, which includes the placing in position.

Q. That is the pipe laid in the yard?

A. Pipe laid in the works.

Q. Well, in the works, yes.

A. Yes.

21797 Q. How deep do you have to lay those pipes in the works?

A. Depending upon local conditions, but in order to cover—well sometimes they are very close to the surface of the works and sometimes four or five feet down. It depends upon the drainage required for them to avoid drips. You cannot compare it with the laying of pipes in the streets, because it is an entirely different proposition.

By Mr. Mathewson:

Q. These are flanged pipes in the exhauster house?

A. In the buildings they are all flanged, and outside they are hub and spigot pipes. Holders—

21798 Mr. Mathewson: Let us see what they want about that.

By Mr. Page:

Q. How many holders are there in this property?

A. Altogether eight holders.

Q. Take the 325,000 feet capacity holder. What is the diameter of the tank?

A. Of the tank or holder?

Q. Of the tank?

A. 94 feet diameter, 26 feet deep.

By Mr. Kirby:

Q. That is a brick tank?

A. A brick tank. All these holders are brick tanks.

21799

By Mr. Page:

Q. What is the diameter of the holder?

A. The outer section is 92 feet 6 inches. The holder has two lifts and a guide frame consisting of eight wrought iron columns with cast-iron tops and bases. The in and outlet pipe has 20-inch connections, wrought iron pipes.

By Mr. Kirby:

Q. What is the thickness of the shell?

A. Of the holder?

Q. Yes.

A. No. 14 and 13.

21800

By Mr. Page:

Q. What is the total height of the holder?

A. Well, it is about 50 feet when inflated. Pressure 4.8 inches when fully inflated.

Q. Now, take the two holders of 4,000,000 capacity. Will you give me—

A. Two holders of 4,000,000 cubic feet capacity, outer section 184 feet 6 inches in diameter. Holder has a guide frame of twenty steel standards 167 feet high and the pipes to the tank 36 inches in diameter. Pressure of one 12.5 inches and of the other 13.4 inches when fully inflated.

Brick tank, 187 feet in diameter, 43 feet 6 inches deep. 65 per cent of the tank excavated in rock.

21801

Q. Have you given the value of the holders and tanks separately?

A. Yes. Do you want the value of the holders?

By Mr. Kirby:

Q. Give the value of the two holders of 325,000 cubic feet capacity?

A. The value of the two holders of 325,000 cubic feet capacity for the steel work is $55,481.

Q. And the value of the tanks?

A. The tanks are the same size and I have them all together, the whole six.

Q. And the value of the four holders?

A. The value of the four holders of the same capacity is $100,920, and the two 4,000,000 foot holders are $398,645.

Q. That is with depreciation?

A. Yes, sir.

Q. In each instance?

A. Yes, sir.

Q. There being no depreciation for the two large holders, but a 3 per cent depreciation factor for the small holders?

21803 A. Yes, sir. Now, the six brick tanks for the smaller holders had a value of $177,547 with no depreciation, and the brick tank for the large holders have a value of $480,280 with no depreciation.

Q. Making a total value of holders and tanks of how much?

A. $1,212,873.

By Mr. Mathewson:

Q. Exclusive of the engineering expenses and interest?

A. Yes, but in the instance of holder stations, the engineering charge and the other items referred to under that heading have been reduced to 5 per cent

21804 from 10 per cent.

Q. So you stated in your testimony the other day?

A. I believe I did state it.

By Mr. Kirby:

Q. But the value of the holders and tanks is $1,212,873, and not the holders themselves, as is stated in the testimony, page 1386.

A. Did I state it so?

Q. The question is "What is the value of those holders? $1,212,873."

A. It is quite possible I did state it so, because when we speak of holders from an engineering standpoint

we include the holder with the tank because the holder is not complete without the tank.

Q. Take the 111th Street station.

A. 111th Street office, $5,974 without depreciation, $5,675 with depreciation.

Exhauster house, $26,127; no depreciation.

Boiler house, $4,167; no depreciation.

Hoisting engine house, $171 without depreciation; $163 with depreciation.

Scale house, $702; no depreciation.

Stable, $11,607 without depreciation; $10,447 with depreciation. 21806

Boiler coal storage, $583; no depreciation.

Generator house, $18,307 without depreciation; $9,154 with depreciation.

Q. How did you come to use such a large percentage of depreciation.

A. Why, that house was in bad condition and it would have required just that amount to fix it up and put it in proper condition.

Q. Do you know when that generator house was erected?

A. No, I do not, but it requires an entire new roof to put it in good condition.

Q. The office building was erected in 1871, wasn't it? 21807

A. No, that is the scale house. Yes, 1871.

Q. And the exhauster house in 1902?

A. Yes, sir. That is entirely new.

Q. And the boiler house in 1902?

A. Yes, sir, entirely new.

Q. And the scale house about 1871?

A. Yes, sir.

Q. And the time of erection of the other buildings you have no knowledge?

A. I have not.

Wooden tool shed, $2,809 without depreciation; $2,528 with.

Retort house, $50,499 without depreciation; $37,874 with depreciation.

Foundation for old oil tanks, $4,491; no depreciation.

Blacksmith's shop, $3,006 without depreciation; $2,946 with depreciation.

All fence, $702 without depreciation.

Fences around holders, $1,026 without depreciation; $923 with depreciation.

21809 Fence around old works, $900 without depreciation; $810 with depreciation.

Brick walls on First Avenue, $703 without depreciation, $689 with depreciation.

Making a total value for the buildings of $107,981.

Now, the apparatus. Contents of office building, $2,500 without depreciation; $2,125 with depreciation.

Exhauster house:

Forty-two valve stands, $651 without depreciation; $636 with depreciation.

Two number 11 vertical Root's exhausters, $5,870; no depreciation.

21810 Two 16-inch by 16-inch Payne reversible motion engines, $3,600; no depreciation.

Two 36-inch Connelley gas governors, $4,500.

One Cochrane feed water heater, $345; no depreciation.

Steam exhaust, gauge piping, gauges, plumbing, piping, steam heating, radiators and piping, $1,610; no depreciation.

One photometer, four closets, one toilet and wash basin, $805; no depreciation.

By Mr. Kirby:

Q. Is all that apparatus in use today?

A. That is perfectly new. All beeen erected in 1902.

Q. And is now being used?

A. Yes, and these were all figured in detail, all of these items.

Boiler house:

One guide steel stack, 4 feet diameter, 64 feet 8 inches high, $507; no depreciation.

Breech for stack, $157; no depreciation.

Three boilers, 66 inches by 16 feet, horizontal return tubular, 90 tubes each, 3 inches diameter by 16 feet long, brick setting, $5,432; no depreciation. 21812

One Knowles pump 6 by 4 by 7 inches, $105; no depreciation.

One 1 1/2-inch Hancock inspirator, $65; no depreciation.

Hoisting engine house:

One Ledgerwood hoisting engine, double cylinder, 8 1/4 by 10 inches, $1,125; no depreciation.

Scale house:

One 10-ton Fairbank wagon scale, $205 without depreciation, $195 with.

Stable:

Stable fittings and appliances, 32 stalls, office furniture and feed racks, $1,300 without depreciation, $1,105 with. 21813

Tool shed:

Lockers, 4-beam engines not in use, one lathe and tool bins, $1,975 without depreciation, $1,778 with.

Retort house:

One stack, 16 benches, six retorts, each retort 20 feet long, $70,720 without depreciation, $53,040 with depreciation.

One stack of five benches, of five retorts, each retort 20 feet long, $20,000 without depreciation, $14,000 with depreciation.

21814 Frederick J. Mayer, Cross

Q. Are those retorts in use today?

A. They were not when I examined the plant, no, sir. It is an old coal gas works near the river side.

Q. Were they being used?

A. Not when I examined the plant, but these benches were all new, had just been rebuilt, I don't know when.

Q. Still you crossed 25 per cent off for depreciation?

A. The arches were old and the iron work was
21815 old. These benches can be operated at any time.

Q. But they were not being operated?

A. Not when I examined the plant. They were all ready to be fired, but I don't think they had a fire in them.

By Mr. Page:

Q. And you don't think they had a fire in them for a number of years, do you?

A. I don't think that they did.

Q. You know as a fact that this plant is not used as an operating plant by the Consolidated Gas Company?

A. Yes, sir, it is used as an operating plant.

21816 By Mr. Mathewson:

Q. You mean as a manufacturing plant?

A. I mean as a manufacturing plant, yes, sir.

By Mr. Page:

Q. But it could be operated, if necessary?

A. Yes, sir, at any time.

Q. What is the capacity of the plant?

A. In these benches could be produced a total of 2,420,000 cubic feet of coal gas.

Q. Very well, you may proceed.

A. Blacksmith shop:

Various forges and tools, $350; no depreciation.

Yard:

Oil tank, 43 feet diameter by 20 feet deep, 1/4-inch plates, $3,105 without depreciation, $1,652 with depreciation.

Atmospheric condenser, cast-iron pipes, 20 inches diameter in ten sections, $5,926 without depreciation, $4,444 with depreciation.

Q. Is there any further apparatus?

A. No, sir, that is all.

Q. There is no purifying apparatus, is there, for this plant?

A. No, sir, nothing of any kind. The gas would have to be purified at some other station. 21818

Q. What else is there that would have to be cared for at some other station?

A. Everything except one condenser, one atmospheric condenser.

Q. Then this plant could not be operated, could it, as a manufacturing plant?

A. Except with some other plant. Not by itself, no.

Q. How could you operate it with some other plant?

A. By pumping the gas to some other station and purifying and condensing it there

Q. That is pumping it as it comes from the benches?

A. Yes, sir. 21819

Q. Would that be a practical operation?

A. No, it would answer in a case of necessity only.

Q. Then as a matter of fact, these are abandoned works, aren't they, and dismantled, aren't they, partially.

A. Practically, yes.

Q. What is the total value of the apparatus that would be applied to gas making at this particular station as separated from that which would be retained, treating this as a distributing station?

Mr. Mathewson: You asked him how much would not be used as a distributing station?

Mr. Page: Yes.

A. $74,914 with depreciation.

Q. That is the apparatus?

A. That is the apparatus.

Q. Now, what buildings could you do away with, as this is to be used as a distributing station merely?

A. The generator house and retort house.

Q. What figure did you value those at in this appraisal?

21821 A. $47,028, including depreciation.

By Mr. Mathewson:

Q. What then would be the total valuation of the buildings which you say would not be used, and the apparatus which would not be used as a manufacturing plant at 111th Street, together, $121,941.

By Mr. Kirby:

Q. You have got some connections here?

A. Pipe connections 24-inch and 36-inch cast-iron—

Mr. Mathewson: That is already on the record.

The Master: Yes, and the valuation of it.

Mr. Kirby: He has the total, I think, but not

21822 the items.

Mr. Mathewson: Well, there are only three or four items.

The Witness: $15,950, no depreciation; 1 1/2 to four inches, diameter, wrought iron pipes, $528, no depreciation.

All valves, $10,590. Making a total for valves and connections, $27,068.

By Mr. Page:

Q. Why do you have forty-one valves of 36 inches diameter?

A. They are located in the valve house and exhauster

house. The gas is pumped from various stations and distributed into the new five million foot holders and there are an enormous number of large valves and connections required in this building.

Q. They are all in use?

A. They are new and in use. I have included no connections that are not in use.

Q. How about connections running from this old abandoned retort house? Are any of those included?

A. There are none included because there are no exhausters to take the gas away from that retort house. There is no other plant to which there is any 21824
connection.

Q. Go on with the holders?

A. Two holders, five million feet capacity each with steel tanks, capacity when fully inflated 14 inches. Outer section 190 feet in diameter.

Steel tank 192 feet, 9 inches in diameter.

Total height of guide frame, 192 feet. In and outlet pipes to tank, 36 inches in diameter. Total value $611,891. No depreciation.

Concrete foundation, 201 feet in diameter, 24 inches deep, for above tank, $92,846. No depreciation.

Making a total for the two holders of $704,737.

By Mr. Mathewson: 21825

Q. Senator Page was not here the other afternoon when you testified that on these holder station you allowed an engineering expense of five per cent only instead of ten per cent?

A. Yes.

Q. And the interest item of five per cent?

A. Yes, sir.

Q. And of course neither of those are included in the value you have now given?

A. No.

By Mr. Page:

Q. Did you give the pressure?

A. I gave it as fourteen inches.

By Mr. Mathewson:

Q. When fully inflated?

A. When fully inflated.

By Mr. Page:

Q. Now that pressure, do you mean that, that it is only fourteen inches when fully inflated?

A. Yes, sir, this is rather a large diameter; therefore the pressure is less as compared with holders of
21827 smaller diameter having considerable depth.

Q. Proceed.

Mr. Mathewson: Take up the 132nd Street station.

A. 132nd Street station:

Governor and boiler house, $26,736. No depreciation.

Q. The building has just been erected?

A. Newly been erected. I figured that in detail and my price was less than what they paid for it, and I could not come up to the price they paid for it entirely. I figure that building three or four times. You see these question marks here?

21828 Q. You tried to approach their limit?

A. I could not do it.

Mr. Mathewson: You put it down as your estimate although it was less than what we paid for it.

The Witness: I thought I made a mistake. I figured it half a dozen times and I could not make it, and I let it go as it was.

Boiler chimney, $3,040. No depreciation.

Total for the building, $29,776.

Apparatus in governor and boiler house:

One No. 11 1/2 vertical exhauster, 122 cubic feet capacity, with flexible coupling, $2,910. No depreciation. 21829

One 6 1/2 by 24 horizontal Buckeye engine, $3,010; no depreciation.

One 24-inch Connelly gas governor, $1,375.

Three B. & W. boilers and two batteries, $8,000; no depreciation.

One 6 by 4-inch Knowles duplex plunger pump, $143; no depreciation.

One No. 6 Cochran feed water heater, $505; no depreciation. 21830

One No. 10 steel-plate breeching, $750; no depreciation.

One 3-inch Crown water meter, $165; no depreciation.

One No. 12 1/2 Metropolitan injector, $78; no depreciation.

One blow-off tank, 3-inch diameter, 10 foot long, $73; no depreciation.

One 8-inch Hudson exhauster head, with steam exhaust water and gauge pipe, $1,885; no depreciation.

Toilet and wash basin and plumbing, $85; no depreciation. 21831

Total for apparatus, $18,979.

Q. All brand new apparatus purchased within the last year?

A. All brand new apparatus.

By Mr. Page:

Q. On all this apparatus did you get the prices that the company paid, or is it your estimate?

A. My estimate, the same as in the instance of the buildings. I obtained the prices myself from the various manufacturers where they were standard articles, such as toilets and wash basins.

21832 Frederick J. Mayer, Cross.

Q. Did you find from the various manufacturers just what they had furnished this particular station for?

A. No, I went to the station and found out what they paid.

Q. And then you went to the manufacturers and asked them what they really received?

A. No, I asked them what they would furnish me such an engine or such an exhauster for, and more than that, I asked them to give me the benefit of the manufacturer's price, and they thought it was for
21833 my firm, and they would give cheaper prices than the gas company paid.

Q. What prices did you put in here, the cheaper prices?

A. Yes, the prices I obtained from them.

Connections, 20 to 36-inch cast-iron, $43,291; no depreciation. All valves, $4,423; no depreciation.

Total for all connections and valves, $47,714.

Gas holder, one holder, 5,000,000 cubic feet capacity in five lifts, outer section 180 feet 6 inches diameter, steel guide frame consisting of twenty steel standards, 192 feet high, crown supported with permanent wooden frame, in and outlet pipe, two sets each of 36
21834 inch diameter for steel tanks; total value of holder and steel tank with guide frame complete, $346,915. Foundation for same of concrete, 203 feet diameter, 24 inches deep, with footings of an average depth of 20 feet below grade, and retaining wall 15 feet deep; total value, $47,000 without depreciation; making total value of holder and foundation $393,965, which does not include 5 per cent engineering and 5 per cent interest charges. Total for the entire station, including those charges, $514,955.

Q. The holder and the tank being new?

A. Yes, I believe that is all.

By Mr. Page:

Q. I understand that all these values have to have added to them in your estimate something for engineering charges and something for interest?

A. Yes.

Q. How much for engineering?

A. Five per cent.

Q. What does that include?

A. All the items referred to under the plants where the reduction was made on account of the simplicity of the structure as compared with the difficulty of examining an entire plant consisting of a great many 21836
buildings with so many connections and details. This was very much simpler and therefore I could not overlook so many items as in the other instances.

Q. When a company has built one five million cubic feet capacity plant they don't have to get up new plans and have new engineering problems to work on in another one identical with it, because it is located in another part of the city?

A. Yes, they have to arrange their valve house and connections and machinery for this station to suit the locality that it is in. It is never alike in two different locations. It has to be adapted and suited to that particular location, and therefore, they have to 21837
make new plans and have new expense for engineering and preliminary expense for their grading, and all that sort of business in each instance.

Q. This item of 5 per cent interest—did you take that for one year? Or, how long does it take to construct a steel tank boiler?

A. Well, I constructed the holder and it took two years.

Q. It took you two years to construct the steel tank at 132nd Street, did it?

A. From the time we had the order until we completed it it was about two years.

Q. From the time you commenced to make deliveries and do the work on which you were drawing payment, it was not two years, was it?

A. Yes. Well, not quite. The total time from the time that the contract was placed until the order was finished was practically two years.

Q. It is generally estimated that it takes two years to build a brick tank holder and one year to build a steel tank holder, isn't it?

A. Well, it takes one year after we get hold of the foundation. In this instance there was a great deal
21839 of excavation and a deep grade had to be made and a great deal of retaining work had to be done by sheet piling and packing to keep the banks intact until we could get hold of the foundation. That consumed an enormous amount of time before we could construct the steel tank, although we had the material there on the ground and of course the gas company made payments as fast as the material was shipped. The first material was shipped probably two months after receipt of the order, and the necessity of that is because the manufacturer cannot accumulate all the material that is finished in his shop. It is delivered as soon as he finishes it.

21840 Q. You have stated somewhere that the cost of filling and testing a tank was a part and went in to make a part of the 5 per cent engineering item?

A. Yes; the water for filling the tank is always paid for by the gas company and never by the contractor.

Q. And the method of testing a holder and a tank is to fill the tank with water and pump in air? Is that it?

A. Yes, for the preliminary test.

Q. Then after that test is satisfactory and the holder is accepted they exhaust the air and put the gas in immediately, don't they?

A. Yes; that is, we open the manhole plate on top of the holder and let the air out.

Q. They don't draw off the water—they use the water then right straight along?

A. Yes, that same water remains in right straight along there is only one charge for the water.

Q. That is charged up to the expense of operation, isn't it?

A. No, I have charged it in my valuation of the cost of the tank?

Q. I know where you charge it, but the company will charge it up as part of the cost of operation, 21842 won't they?

A. No, sir, because it is not an operating expense; it is a holder expense, presumably for the reason that a holder cannot be used until it is filled with water, and the expense is only once, and therefore cannot be counted as operating expense: It is not a continuous expense.

Q. If the company should charge it in as such it ought to be eliminated?

A. Yes, it cannot be charged twice.

Inwood station, exhauster and valve house, $3,330 without depreciation; $3,230 with depreciation.

By Mr. Kirby: 21843

Q. Erected in 1886?

A. Yes.

Apparatus, one-6 inch McKenzie exhauster, 6-inch connection; one Smith & Sayre vertical engine, 4 by 6 inches; one 12-inch governor; one upright tubular boiler, 3 feet by 6 feet high, containing 52 one and one-half inch diameter steam connections, piping, steam fitting, steam and gas pressure gauges, one Cameron pump 3 inches by 5 inches. Total value of all above apparatus, allowing for depreciation, $1,640. Erected in 1898.

21844 Frederick J. Mayer, Cross.

Q. No depreciation being for over 5 per cent?

A. Yes, I gave that, allowing for depreciation. Connections, 6 to 12 inches, $650; no depreciation. Those are cast iron.

One to 12-inch wrought iron connections, $18; no depreciation.

Valves, $255; no depreciation.

Total for connections and valves, $923.

One holder, 60,000 cubic feet capacity, in two lifts. Outer lift 40 feet diameter, 20 feet 6 inches deep, steel guide frame standards consisting of eight steel column
21845 standards with latticed steel bracing and tie rods, 12-inch inlet and outlet pipes for tank; 6-inch pressure when fully inflated; value, $11,882 without depreciation; $11,288 with depreciation.

Brick tank for same, concrete foundations, 47 feet in diameter, 21 feet 4 inches deep, $6,660, no depreciation.

Total for holder complete, $17,948. Did we give the total for the station before?

Mr. Mathewson: Yes, I think you did.

Q. All such buildings and apparatus are used for the distribution of gas and not in its manufacture?

A. Yes, sir.

21846 Mr. Mathewson: That was the Inwood station?

A. That was the Inwood station.

Q. Now, let us start with 14th Street and give the total value of each holder.

The Master: Subdivide the holders.

The Witness: 14th Street holders; six holders, 345,500 cubic feet capacity, constructed in two lifts with outer sections 95 feet diameter by 26 feet deep. Total value of holders, $152,052; pressure varying from a minimum of 4.55 to 4.95 inches when fully inflated.

Two holders of 250,000 cubic feet capacity each, 86 feet in diameter, constructed in two lifts, with an outer lift of 84 feet in diameter; total value with depreciation $46,882. Pressure when fully inflated 4.75 inches.

Brick tanks for above holders, six tanks 97 feet in diameter by 26 feet deep with pile, foundation $219,039; no depreciation.

Two brick tanks, 86 feet in diameter by 26 feet deep with pile foundation, $57,383. Making a total for holders complete, $475,356.

Forty-second Street station, four holders, 250,000 21848
cubic feet capacity, each constructed in two lifts with an outer lift of 95 feet 1-1/2 inch in brick tanks; total value for the three holders with depreciation, $103,206. Pressure when fully inflated, 4.4 inches.

Four brick tanks for the above holders, 96 feet 10 inches diameter, 21 feet 6 inches deep, constructed on pile foundations, $120,384 with depreciation.

One steel tank holder 20 feet in diameter by 10 feet high. That holder is not in use at the present time. It can be used because it is connected and ready for use. The value of that holder is $2,800 without depreciation, and $2,188 with depreciation, making a total for all holders at that station of $225,778.

21849

44th Street station. 4 holders, 375,000 cubic feet capacity, each constructed in two lifts with an outer lift of 89 feet diameter by 30 feet 6 inches deep pressure, when fully inflated, 6 inches. Value of four holders with depreciation, $111,946.

One holder 2,000,000 cubic feet capacity in two lifts, 181 feet in diameter by 42 feet high. Total value allowing for depreciation, $104,982.

Two holders 125,000 cubic feet capacity each, single lift, 72 feet 6 inches in diameter, 5.5 inches pressure, which is the value allowed for depreciation, $15,480.

The other holder is 6 inches pressure and its value with depreciation is $16,690.

Four brick tanks for the 375,000 cubic feet holders constructed in rock of the value of $214,747. The brick tanks for the 2,000,000 feet holders, is 185 feet in diameter by 41 feet 5 inches deep, constructed in rock and has a value of $276,269.

Two brick tanks, 75 feet diameter by 32 feet deep for the 225,000 cubic feet holders; they have a value of $74,815, allowing for depreciation, making a total for all holders at that works, $814,929.

21851 21st Street station: Four holders each of 400,000 cubic feet capacity in three lifts, pressure 8.7 inches, outer section 88 feet in diameter, 16 cast iron columns, standards and guide frame, total for the four holders, $201,848.

One holder, one and one-half million cubic feet capacity in two lifts.

Upper lift, 165 feet 8 inches diameter, pressure when fully inflated 5.9 inches, total value, allowing for depreciation, $84,314.

Four brick tanks for the 400,000 cubic feet holders, total value, $125,708.

Brick tank for the one and a half million cubic feet
21852 holders, 171 feet diameter by 37 feet 2 inches deep on concrete foundations, $139,970, making a total for all the holders in brick tanks at that works, $561,840.

99th Street station: Two holders, 600,000 cubic feet capacity in three lifts.

Outer lift 100 feet in diameter, pressure when fully inflated, 7.2 inches. Total value of both holders, $59,674 without depreciation.

One holder 300,000 cubic feet capacity in two lifts with an outer section, 88 feet, having a total pressure of 4.5 inches, value $24,914.

One holder 100,000 cubic feet capacity in one lift,

67 feet diameter, 4.25 inches pressure; total value without depreciation $12,271. Total for the four holders above referred to, $156,533 without depreciation. With depreciation $140,880.

Two brick tanks for the 600,000 feet holders each, $35,954.

Brick tank for the 300,000-foot holder, $28,830.

Brick tank for the 100,000-foot holder, $20,488.

All of these brick tanks are constructed on pile foundations.

Total for all brick tanks, $121,226, allowing for depreciation. 21854

At 6.05 P. M. adjourned to Tuesday, September 4th, 1906, at 1 P. M.

New York, Tuesday, September 4, 1906.

1 o'clock P. M.

Met pursuant to adjournment.

PRESENT: THE MASTER, MR. MATHEWSON, MR. PAGE, MR. BURR AND MR. KIRBY.

FREDERICK J. MAYER resumed. 21855

CROSS-EXAMINATION BY MR. PAGE (CONTINUED):

Q. Will you take the five million-foot holder at 132nd Street, and give me the various items, and how you arrive at the value, beginning first with the tank?

A. The entire weight of that holder is 5,256,280 pounds of steel of various character, and the total price per pound figured for that holder under present conditions is 6.6 cents per pound, and that 6.6 was made up from the following factors: Material 2.2 cents per pound; freight, 20 cents; drayage, 10 cents;

shop labor, .73; labor, 1.28; total, 4.57 cents per pound. To which must be added for operating expenses 15 per cent, or 68 cents per pound, and for miscellaneous expenses 46 cents per pound, making a total of 5.71 cents. Then a profit of 15 per cent, equal to 85 cents per pound, making a total of 6.56 per pound, for which a price was applied of 6.6 cents.

Q. When you add the value of this holder into the rest of the apparatus, then you add another ten per cent, don't you?

A. No, 5 per cent, in the interest of holder stations.

21857 Q. Besides the 10 per cent which you had allowed here for miscellaneous expenses?

A. Only for the holder proper; that is, 10 per cent, which is the manufacturers' 10 per cent, in the instance of the cost of the holder.

Q. Have you given here the tank or the holder?

A. The tank and the holder, complete, all steel work.

Q. Where do you get the item allowing for rivets in the computation which you have made?

A. In the item of material at 2.26 cents per pound. That 2.26 cents is made up from the following factors: Do you want me to give the detail prices of those?

21858 Q. I would like to have them, yes.

A. Open hearth steel plates, 1.83 cents per pound; flange steel, 1.93; sheet steel, 1.93; gas holder steel, 2.05; steel rib plates, 3 cents; universal steel plates, 1.83; steel angles, 1.93; steel channels, 1.93; steel I-beams, 1.93; flat steel bars, 1.73; steel beads, 1.73; double steel beads, 2.03; steel checkered plated, 3 cents; round steel bars, 1.73; steel tees, 1.83; tank rivets, 2.05; gas holder rivets, 4.25; boiler rivets, 2.75.

Q. How did you estimate the labor? You have given two elements of labor, haven't you?

A. One is shop labor and the other is erection

labor. That is based on actual conditions as they exist at the present time, taken from my construction accounts.

Q. I suppose the labor item would be divided into ordinary labor and skilled labor, would it not?

A. Yes, sir.

Q. How much do you allow for ordinary labor?

A. That varies, of course, in the shop from those in the field. Shop wages, are, for riveters, $2.50 per day; rivet helpers, $1.62; holders on, $1.62; rivet heaters $1.26; template makers, $3.50; fitters, $3.25; machinists, $2.70; machinist's helpers, $1.62; fitters, 21860
$3.00; pipe fitters, $2.79; pipe fitters' helpers, $1.75; carpenters, $2.75; pattern makers, $3.25; pattern makers' boys, $1.50; molders, $3.00, core makers, $2.50; helpers, $2.00; boys, 84 cents; ordinary laborers, $2.00 per day.

Q. How many hours to a day's work?

A. Eight hours. No, it is nine hours in the shop and eight hours in the field. That is all shop wages that I have given you just now.

By Mr. Mathewson:

Q. Field wages are the wages used in setting the apparatus, you mean?

A. Yes, at the point of construction, assembling 21861
and construction. Foreman, $5 to $6 per day; boiler makers and caulkers, $3.20 a day; riggers, $3.20 holders on, $2.50; heaters and helpers, $2.00; laborers, $1.75; blacksmiths, $3.50; mechanics, $3.00; helpers on apparatus, $2.00 to $2.50; carpenters, $4.80. Now, I have got the labor for erecting the permanent timber frame which is located on the inside of the tank, and which supports the crown of the inner construction, all steel plate. The labor is $16.50 per thousand feet of timber in the frame, and the labor for erecting of scaffolds is $7.25 per thousand feet of lumber in the frame. Housesmiths, $4.50.

By Mr. Page:

Q. Where do you get your figures of labor cost?

A. From my construction accounts.

Q. The construction accounts of Bartlett, Hayward & Company?

A. Yes.

Q. Are those the rates of wages that you figure in as a co-efficient when you bid on a tank?

A. Yes, absolutely the same.

Q. Bartlett, Hayward & Company built the gas holder at 132 Street, didn't they?

21863 A. Yes, sir.

Q. And have you taken those figures that you have given here from the estimate or contract price which you gave to the Consolidated Gas Company?

A. No, sir, I have applied the figures as they exist today.

Q. In making that application does this holder in total cost come to more or less than the figure which you gave to the Consolidated Gas Company?

A. I think the figure comes to more for present conditions. The figure given the Consolidated Gas Company for the 132nd Street holder was a particularly low one for the reason that at that time we had under consideration the construction of four holders of the

21864 same capacity, one for the Consolidated Company, two for the Standard Company and one, I think, for the Mutual Company, if my memory serves me correctly, representing four times the amount of weight for which we were able to place an order with the mills, and under which conditions we, of course, received a special and low price.

Q. Then, if you were called upon to erect all holders of the Consolidated Gas Company now, at one time, you would make a much lower figure per holder?

A. Well, all the holders are somewhat of different

material, so I could not hardly include that under similar conditions which I outlined just now.

Q. Under the theory under which you have been giving testimony, that you are giving the price that it would cost to reproduce these holders new today, if you had that contract to reproduce all those holders at one time you would figure a much lower price on each holder than you have given here today, wouldn't you?

A. As I say, all the holders would not come within the limitations of the conditions which I outlined just now, because it would require a great many years to 21866
construct all of them, but for the four or five of them which could be constructed within two years, I could control the price of material for that length of time; beyond that it would be impossible.

Q. How many holders of five million feet capacity has the Consolidated Gas Company; do you recall, off-hand?

A. No, I do not.

Q. This holder at 132nd Street has just been completed, has it not? Gas has been turned in since this hearing, hasn't it?

A. No.

Q. This year? 21967

A. It was before that.

Q. Not since you have been here, but I believe that Mr. Bradley testified that it would be turned on that day that he was here.

A. That I do not know; I thought you referred to the time that I have been here.

Q. I understand that in giving this estimate of what it would cost to reproduce this contract, you paid no attention to the figures that acually went to make up the cost, but you have proceeded under this theory of estimation of yours, which produces much larger results?

A. I do not know that it is much larger. I do not know just what the figure was for those four holders, but these are the conditions as they exist today and which will have to be applied for today's reproduction.

By Mr. Mathewson:

Q. If you were to make a contract today.

A. If I were to make a contract that would be the figure.

By Mr. Page:

Q. If you were asked to make a contract today on four holders of 5,000,000 feet capacity, you would
21869 make a contract for much less per holder than the figure you have given, wouldn't you?

A. I would not say much less; it would be the conditions of labor as they are today, because that could not be changed.

Q. It would be as much less than this 132nd Street holder actually cost, than it cost under your theoretical scheme?

A. Less the difference in existing prices of today as compared to those for labor and for material both; there is a direct increase in both for present conditions.

Q. I thought you said that within the last two years
21870 there has been no material increase or decrease in the rates of steel or labor, didn't you?

A. If I remember my testimony correctly, I think I stated that the material at present was perhaps slightly less and the labor slightly more, so that one would compensate the other approximately.

Q. It would amount to about the same thing?

A. Yes; now, when I speak of labor I mean total labor for the entire construction. Of course, you understand that the wages are very much higher at present than they were at that time.

Q. At what time?

A. In 1903 and particularly 1904. From 1903 to 1904, the rates were jumping very fast.

Q. When did they cease to jump—in 1904?

A. They have not ceased to jump yet, and God only knows when they will, nobody knows.

Q. Then, as I under-stand you, as labor jumps up, material jumps down, so that they keep about an equilibrium?

A. Not absolutely. No, that was merely an opinion that I gave you off-hand, because I had that condition in my mind at the time I said that. I believe that it is 21872
approximately correct. For instance, the reason that the total cost of labor is less at the present time than it was in 1903, is due to the fact that we were compelled to improve our field machinery in order to offset the constantly increasing demand for wages.

Q. That has been the experience of every line of manufacture, hasn't it?

A. Yes, I presume so.

Q. That is, as wages increase the inventive genius of man on the other hand produces labor saving machinery and, therefore, we arrive at the result that we can produce cheaper although we pay more for labor?

A. Yes, I presume that the same conditions exist in 21873
other branches of business the same as ours.

Q. Now, if you will turn to the four million capacity tank at 65th Street, that is a holder with a brick tank?

A. Yes, sir; two holders, each four million feet.

Q. Now, will you give me the elements of cost that enter into the production of the tanks?

A. The total weight of the two holders—that is, steelwork and ironwork I refer to—is 5,614,720 pounds. The unit price is 7.1 cents a pound, making a total of $398,645.

Q. You give for that as a unit figure 7.1 cents per pound?

A. Yes, sir.

Q. Is there any allowance there for excavation?

A. No, that comes in the cost of the tank.

Q. That is what I asked you for—the tank?

A. The tank alone?

Q. Yes; I want the tank first.

A. The two tanks cost $480,280.

Q. For what?

A. They are brick tanks excavated for 65 per cent
21875 of the depth in rock.

Q. How much do you allow, how many cubic feet of rock and at how much per cubic foot, if that is what you estimated, or per cubic yard?

A. The total cost amounts to 20.1 cents per cubic foot, figuring the bottom as being horizontal.

Q. The bottom is not horizontal?

A. No; but it does not make any difference in the application of a unit factor if you figure them on the same basis.

Q. How many million feet do you make it that you excavated there?

A. I estimated another holder, which had a brick
21876 tank of 170 feet in diameter by 38 feet 9 inches in depth; this tank was 187 in diameter by 43 feet 6 inches in depth; so that the general dimensions did not differ materially. And in the other instance, I found that the excavation amounted to 38,420 cubic yards. That, figured at $1.50 a yard—

Q. Is that in rock?

A. No, in earth. The back filling amounted to 9,452 cubic yards at $1.50; the concrete, 1,462 cubic yards, at $7.00. The brick, 1,618,000, at $25.00, laid; the stone landing piers at $3.50 per cubic foot.

Q. And how much per cubic foot for your landing stones?

A. $3.50. That is granite, $3.50 per cubic foot. Now, the total cost of that tank, assuming the bottom to be flat, is 14.4 cents per cubic foot. If it would have been rock excavation for the entire depth it would have added $2.00 per cubic yard, which is equal to 8.7 cents per cubic foot. That would have made a total of 23.1 per cubic foot, completed work. In this instance I have applied the difference between the total and 65 per cent of rock excavation, making the figure, instead of 23.1 cents, 20.1 cents.

Q. Was there any granite coping?

A. Yes, sir, that is included. Eighteen pier copings, 457 feet of stone coping; that is all included in that price of $3.50 per cubic foot. 21878

Q. Is that not a pretty good price for that?

A. That is the price that I obtained from the builders; that is extraordinary size—

Q. What kind of granite did you get—imported Scotch granite?

A. No; any kind that can be gotten under local conditions; if that can be got and used, it will answer the same purpose.

Q. It was not a fancy granite, then?

A. No, sir.

By Mr. Mathewson: 21879

Q. What did you say about large blocks or size?

A. Its thickness is from 3 to 4 or 5 inches—about equal to that of coping and landing piers, and the price was given on that basis.

By Mr. Page:

Q. Did you have any anchor bolts there?

A. They are in with the steel work of the holders.

Q. You figured those at 7.1 cents?

A. That and the pipes inside of the tank, as well as the guide rails and anchor bolts for the guide rails.

Q. Is your estimate given on the basis that you would reproduce these two tanks together new?

A. Yes, sir.

Q. Have you made any allowance because of a wholesale rate on two tanks rather than one?

A. No, I figured upon actual cost, so much per thousand cubic feet of work, so it does not make any difference whether it is one or two.

Q. Wouldn't you, if you were bidding on two tanks to be erected side by side, make a cheaper bid than you would if you were to bid on one tank? Two
21881 tanks exactly similar, and the holders?

A. I would not make any allowance or reduction in price on account of building two tanks, but the circumstance of building two tanks right close together diminishes the price as compared with the erection of two single tanks in different localities, because there is less excavation for the two tanks so located. In constructions of this kind, where there is no shop work to be estimated, you cannot take that into consideration.

Q. How about the holders?

A. It is different with the holders. You would have a certain amount of saving in your shop work, because a great deal of the head work and other work
21882 performed in the shop would be applied to the two holders as well as to one.

Q. But in making this estimate you have given us here, you have treated it as if you were building two entirely distinct tanks at different times.

A. I did, yes, sir, for the holders.

Q. Yes. And that is so with your estimate of every bit of apparatus you have testified to?

A. No, I would not say that.

Q. Not taking into consideration the fact that you could buy a large quantity of it at one time at lower prices than you could a single machine.

21883

A. No, I cannot base an estimate of this character upon that, but you can in an estimate for a contract, when you know that the conditions actually exist at the time you make the contract.

Q. Well, I suppose that if you could not, you mean you did not?

A. I did not; besides which I do not know that these two holders were built at the same time. They may have been built at different times.

Q. But today you are building them in your mind at the same time?

21884

A. Yes, but not all at once.

Q. Yes.

A. It would take a good many years to build all these holders.

Q. It only takes a few minutes to reproduce these gas holders here. Now, as I understand you, in examining the 14th and 42nd Street plants, for instance, you did not take into consideration whether they were commercially or economically worth replacing, did you?

A. No, sir; I only figured on what I found there.

Q. That is what it would cost to reproduce that apparatus, whether or not it was commercially or economically an apparatus that would be built today?

21885

A. I paid no attention to that whatever.

Q. And did you take into consideration whether gas could be reproduced at those particular plants at $1.50 or 50 cents per thousand cubic feet?

A. I did not consider it at all because it has no bearing whatever on the apparatus as I found them.

Q. As you valued it?

Q. Now, where a plant was of an old type which, owing to the advance in the science of gas engineering, would not be built today, did you allow anything for depreciation by reason of that fact?

A. No, sir.

21886 Frederick J. Mayer, Cross.

Q. Where an apparatus was obsolete and not in use, but was standing in place, did you estimate that according to real value, or did you estimate what it would cost to reproduce that apparatus new today?

A. I don't recollect any apparatus that was obsolete; there were a good many that were not in use owing to the season of the year, where the demands on the production is less than at other times of the year.

Q. Will you tell me to what use you can put the hydrogen scrubber that is at the 99th Street plant today, what use can you make of a hydrogen scrubber today?

21887

A. Well, it can be used for the scrubbing of water gas as they make it today.

Q. The hydrogen scrubber was a portion of the old Tessae du Motay plant, wasn't it, when they used to manufacture a hydrogen gas separately, and interject it into the make of the water gas?

A. Yes, sir.

Q. And it is an apparatus that has been abandoned for years, hasn't it, and supplanted by several different processes since?

A. Well, but the scrubber of the Tessae du Motay, or any other carbureted water gas process can be used in connection with the U. G. I. as well as anything else.

21888

Q. What did you use it for?

A. For the elimination of mechanically suspended impurities which exist in both processes. The process has nothing to do with that kind of imperfection.

Q. You find in this 99th Street station that they have the necessary scrubbers outside of the hydrogen scrubber, haven't they?

A. Yes, sir.

Q. Would there have to be any alterations made in the scrubber to use it today?

A. Well, it is quite possible that in the designing of the scrubbers for the U. G. I. apparatus it was taken into consideration that this scrubber should be used.

Q. Is it used? I think you have it marked as not in use.

A. I presume it is used when they make the full amount of gas.

Q. Will you turn to your data of the scrubbing apparatus and compute the amount of scrubbing surface that you have, if you call it such, and see if that is sufficient to take care of the production at that particular plant without the use of this hydrogen scrubber? 21890

A. I haven't got all that data here with me.

Q. Turn to the 99th Street plant.

A. Two hydrogen scrubbers 28 feet high.

Q. I thought you only had one, but I see you have two there.

A. Two.

Q. Take the other scrubber, you say "out of commission"?

A. I say it was out of commission when I examined the plant.

Q. Are they connected with anything? 21891

A. Yes, sir.

Q. What are they connected with?

A. With the pipe system.

Q. Where does the pipe system lead to?

A. I presume now it leads to the tank of the U. G. I. process.

Q. You say you presume. Do you know?

A. I cannot recall it now. I have examined so many plants I would have to examine that particularly if you want me to give an intelligent answer.

Q. What did you mean when you said out of com-

mission? You did not say not in use, but out of commission. That is what we say when a thing is laid up and abandoned practically, isn't it?

A. It is not abandoned, it is laid up for the present, but not abandoned. You will find that same remark about several other apparatuses. It means out of use temporarily.

Q. Take the other scrubbers you have up there and see whether you have enough to do the business?

A. There are two more scrubbers above that of the
21893 same size.

Q. Two hot scrubbers?

A. Two hot scrubbers, yes, sir.

Q. Those are 21 feet high and 8 feet 6 inches in diameter?

A. Yes.

Q. How much gas would those two scrubbers take care of?

A. 243,000 cubic feet in 24 hours.

Q. Will you give me your calculation on that?

A. I know it takes five cubic feet of volume for each thousand cubic feet of gas passed in 24 hours.

Q. Are there any scrubbers up there in that plant?

21894 A. There are two more up there 10 feet in diameter by 24 feet high.

Q. Take those up.

A. Do you want the capacity of those?

Q. Yes.

A. 384,000 cubic feet in 24 hours.

Q. And the other was what?

A. 243,000 cubic feet.

Q. Now, if we multiply each of those by two and add them together we will get the answer to the question that I asked?

A. There are more scrubbers. 1,254,000 cubic feet. There are more scrubbers there.

Q. Well, give us those?

Mr. Mathewson: Does that include the hydrogen scrubbers.

The Witness: No, we can take those next.

Q. No, do not take the hydrogen scrubbers. Leave those out.

A. I don't find any more except the two hydrogen scrubbers.

Q. Now, give me the capacity of the two hydrogen scrubbers? 21896

A. They are about the same as the others, I guess.

Q. Then it is about the same?

A. They are about the same as the two hot scrubbers. That makes 1,740,000 cubic feet per day in those scrubbers that I have named.

Q. What is the capacity of this plant at 99th Street?

A. 5,500,000 cubic feet.

Q. Then you could not pass the total production of the plant through the scrubbers, could you, if you have only got 1,740,000 cubic feet?

A. Well, in addition to these there are additional scrubbers, I assume, in the U. G. I. apparatus, or 21897 whatever they furnish in connection with the apparatus.

Q. When you buy a set of U. G. I. apparatus, it includes, does it, the generator, carbureter, the superheater and the scrubbers and condensers necessary?

A. Not always.

Q. Does it in this case?

A. I was just looking when you asked the question.

Q. Have you so estimated it here?

A. No, I find no scrubbers there.

Q. I asked you when you were considering this plant whether you found there the necessary scrubbers, condensers and purifiers to produce the full capacity?

A. Yes, sir.

Q. You said you did. Now, then, how do you explain the fact that there are only scrubbers sufficient to take care of 1,740,000 cubic feet per day, when the capacity of the works, according to the generators, is 5,500,000 cubic feet per day?

21899 A. That is on the basis of my applying a figure of five cubic feet per thousand cubic feet of gas being passed through that apparatus. They evidently are passing it through with much less volume and get the same result.

Q. Then your computation is wrong as to the capacity of the scrubbers, isn't it?

A. No, not necessarily. You cannot scrub that gas too much. I should provide a larger scrubbing capacity, but that is all that I have included there.

Q. When you took the unit of five feet, on what did you base it?

A. In my experience that is what I should apply.

21900 By Mr. Mathewson:

Q. Is that a coal gas or water gas plant at 99th Street?

A. Coal gas.

Mr. Page: No, it is water gas.

The Witness: That is right. That is where I made my mistake. It is water gas.

By Mr. Page:

Q. Now, water gas, how much do you pass through the scrubber in a day?

A. Well, the scrubbers in water gas are required very much smaller than those for coal gas. We take

out certain impurities in the water gas and in the coal gas we take out ammonia.

Q. What unit would you apply as a unit to the water gas plant?

A. Well, it is a very small cubical part, perhaps one and one-half cubic feet per thousand, up to two feet per thousand. It is not very material in the water gas.

Q. Now, will you make your calculations then on the four scrubbers, ignoring the hydrogen scrubbers?

A. As to capacity?

Q. Yes, as to capacity for water gas. 21902

Mr. Mathewson: At the rate he has indicated, I suppose?

Mr. Page: Well, the correct rate, if he has got it there.

Mr. Mathewson: There isn't any correct rate. Some works do not use any.

The Witness: Oh, no, it is very immaterial with water gas.

Mr. Mathewson: In coal gas you have to have a fixed proportion. In water gas you do not.

Q. And it don't make much difference how large your scrubber is?

A. No, it doesn't, because you regulate with the amount of water or material you have inside for filling. 21903

Q. Then certainly these four scrubbers can take care of whatever is produced there without any regard to the hydrogen scrubbers, can't they?

A. Well, I wouldn't say that.

Q. Well, if it does not make any difference what the size of your scrubber is, certainly if you have got two big scrubbers like these or four big scrubbers, they would take care of this capacity?

A. You have got to have enough, of course, for a minimum capacity.

Q. Now, have you enough for a minimum capacity in those four scrubbers?

A. I wouldn't say that they have.

Q. Well, if you were going to build a water gas plant, you would have some idea what a capacity of scrubber you would have to have for 5,500,000 cubic feet.

A. I was just trying to figure that for water gas. Well (after figuring), it will be on the basis of from
21905 one to one and one-half, it will be on the basis of 4,500,000 to 6,000,000, averaging about 5,000,000. It is not very material what the size of a scrubber in a water gas plant is. Of course you have got to have a certain minimum capacity.

Q. Then in these four scrubbers, excluding the hydrogen scrubbers, you certainly have sufficient to take care of the production of that plant, haven't you?

A. Well, as I said before, I wouldn't say that positively.

Q. Well, it is somewhere between four and one-half and six millions, you say?

21906 A. Yes, sir.

Q. And the capacity of the plant is 5,500,000?

A. Yes, sir.

By Mr. Mathewson:

Q. Then how do you figure it out there would be sufficient if it is four and one-half million and the capacity of the plant is five and one-half million?

A. Well, from four and one-half to six.

Q. No, according to whether you took one or one and one-half. It is according to the kind of coal, how much gas you get in passing through the apparatus.

Some require more. If you use coke it is a different capacity than coal?

By Mr. Page:

Q. Well, coke makes more ashes than hard coal.

A. Some does and some don't.

Q. Where are these hydrogen scrubbers located with reference to the generating plant and with reference to the balance of the plant.

A. They are not very far from the other scrubbers in the yard. They are both in the yard. Both the hot scrubbers and the hydrogen scrubbers.

Q. Are they both on the same side of the generating 21908
plant?

A. What is this, 99th Street?

Q. Yes.

A. No, I think they are all on the opposite side.

Q. No, I say are the scrubbers that you testified to and the hydrogen scrubbers both on the same side as the generating plant?

A. Well, what I meant is, they are on the opposite side of the yard from where the generator house is. All the scrubbers are together on the opposite side of the yard.

Q. But as related to the generator house, they are all on the same side? 21909

A. All on the same side, yes, sir.

Q. You have given considerable testimony relating to yard connections. How did you measure those up?

A. Partly on the plans and partly on top of the ground.

Q. Wherever the pipes were on top of the ground you actually measured them, did you, you and your assistants?

A. No. I mean I took the measurements on top

of the ground of all the pipes located below the ground.

Q. Of course where a pipe was visible, did you measure that pipe?

A. Yes, sir.

Q. And where a pipe was covered, you took some plans that were furnished you?

A. Partly, and where there was no plan, I took the direction of the pipe indicated by the point where it entered the ground and the point where it come out of the ground.

21911 Q. Can you recall whether there are any pipes shown on the plans, running from the generating apparatus to these hydrogen scrubbers?

A. In 99th Street?

Q. Yes.

A. As near as I can remember, the pipe in the generating house was all overhead, and then it turned down at the end of the generator house to a point below the ground and extended across the yard underground, then came out of the ground and connected these scrubbers which were in the yard on the opposite side from the generator house.

Q. And they would connect with the scrubber at

21912 the top, would they, or at the bottom?

A. The bottom. That is, the inlet to the scrubber was at the bottom of the apparatus.

Q. And the water comes down?

A. Yes, sir.

Q. And at the top there is a pipe to carry off the gas in the scrubber?

A. The same pipe extends through to the top of the scrubber, then goes to the outlet of the pass and becomes a by-pass in connection with a second pipe.

Q. Do you remember whether these hydrogen scrubbers, were connected at the top?

A. As near as I can remember they were connected with a common pipe across the top.

Q. Common with what?

A. Common to all the scrubbers.

Q. Were there any valves to cut off the—

A. Yes, sir. The necessary inlet and outlet and the apparatus to form the by-pass.

Q. Where did you get your information to put these scrubbers down as "out of commission"?

A. That simply indicated they were not in use at the time of my investigation. Some of the men used the words "not in commission" and others "not in 21914
use," and it was just an expression that they were not in use at that time, depending upon the man who made the investigation at that plant.

Q. Did you find all of these scrubbers in operation?

A. Yes, sir, only when they are marked otherwise.

Q. When did you make your examination?

A. Well, during the last seven weeks.

Q. Was the plant operating at its full capacity during the term you were examining?

A. No, sir, I think not. I didn't make any particular inquiry about that, but no plant is in the summer time. 21915

Q. You didn't make any inquiry to find out whether or not these various apparatuses that are in the different plants were really used or not, then I understand. No, sir, I did not, at that time. Of course they had to be used when the plant was operated to the full capacity.

Mr. Page: I think that is all.

CROSS-EXAMINATION BY MR. BURR:

Q. On page 1581 of the record there seems to be an uncertainty in your answer. The question is, referring to the 111th Street station:

"Q. Do you know as a fact that this plant is not used as an operating plant by the Consolidated Gas Company?

"A. Yes, sir, it is used as an operating plant.

"By Mr. Mathewson:

"Q. You mean as a manufacturing plant?

"A. I mean as a manufacturing plant, yes, sir.

"By Mr. Page:

"Q. But it could be operated if necessary?

"By Mr. Burr:

"A. Yes, sir, at any time."

21917 Now, what is the fact? Is that an operating plant or is it not an operating plant?

A. It is not.

Q. And further on you testified that in your opinion it has not been used as an operating plant for several years.

Mr. Mathewson: What plant is that?

Mr. Burr: 111th Street.

Mr. Mathewson: Do you and the witness, each know what you mean by operating.

Mr. Burr: I will ask him.

Q. When I asked you if it is an operating plant at 111th Street, what did you understand by that

21918 question?

A. That you mean that gas is manufactured there.

Q. That is exactly what I meant. And I understand you to say it is not used for the manufacture of gas.

A. No, sir, it is not.

Q. And therefore it is not used as a manufacturing plant?

A. No, sir.

By Mr. Mathewson:

Q. But it is in operation as a distributing plant?

A. As a distributing plant, yes, sir.

Mr. Burr: I am not asking about that.

Q. It is not used as a plant for the manufacture of gas and has not been for several years, according to your testimony?

A. No, sir.

Q. What other one of the plants you examined is not being used now for the manufacture of gas?

A. I don't recall any except the holder stations and that portion of 18th Street that is still in existence.

Q. Well, now, that plant at 18th Street is not being operated?

A. No, sir, except as a holder station; not as a 21920 manufacturing station.

Q. It is not operated as a plant for the manufacture of gas?

A. No, sir.

Q. Do you know how long it has been out of such use as an operating plant or manufacturing plant?

A. The 18th Street?

Q. Yes, sir.

A. I don't remember exactly, but I think it is somewhere since 1902 or 1903.

Q. You have had a general supervision of the plants and holders of the Consolidated Gas Company for same years, haven't you? 21921

A. Never have.

Q. Haven't you inspected them from time to time heretofore?

A. No, sir.

Q. Before you were called as a witness here?

A. No, sir, I built a great many holders for them.

Q. Have you never been called upon to inspect their plant to find out what repairs were necessary, or new construction work was necessary?

A. Oh, yes.

Q. You have?

A. Yes.

Q. How often?

A. I can't recall the number of times. Quite frequently in the years past.

Q. Frequently within the past five years?

A. Very seldom within the past five years, for the reason that during that time most of the plants designed for alteration, were designed by the gas company itself.

Q. Without competition?

21923 A. Oh, no, always with competition. We never had a job from the Consolidated Gas Company without competition.

Q. I understood you to say they were designed by the gas company themselves—

A. That is, upon the alterations, upon which the various bidders submitted their various propositions.

Q. And hadn't you before you made up this schedule, a list of all the plants of the Consolidated Gas Company in your possession?

A. No, sir.

Q. Didn't Bartlett, Hayward & Company have such a list?

21924 A. Oh, no. It would be impossible for them to have it.

Q. When did you first begin to make that list up, seven weeks ago?

A. Yes, sir.

Q. And was that made up by you from a personal inspection of each particular apparatus?

A. Yes, sir; that is, by my men under my supervision.

Q. Was it the man who made the mistake in the valuation for you which necessitated the corrections which you have made here?

A. Oh, that was only the clerk in transferring the figure, in leaving off a decimal point.

Q. It was more than that.

A. Well, all the mistakes are of that kind.

Q. You recall that in some of the addenda to these lists of the apparatus of various plants, you called attention to the facts that you made a mistake in placing the valuation on some of the parts, don't you recall that?

A. It was not a mistake, as far as the addenda was concerned; it was simply an addition which I found necessary upon my personal inspection after the lists 21926
had been completed.

Q. You had to increase the valuations because you learned that certain parts of the apparatus were recently purchased, or for some other reason, isn't that so?

A. No, for the reason that I found conditions to exist that I had not observed in my first examination. I went to each of the works repeatedly.

Q. Who called your attention to the fact that you had not observed that on your examination?

A. I found that by going over the works repeatedly myself. I had to change my list continuously from day to day in making my examinations. When I 21927
was not quite sure I sent my man, and when I did not get an intelligent reply from him I went myself.

Q. No one called your attention to it then?

A. My own men, yes, sir.

Q. Who gave you the dates of the construction of these various apparatus and plants?

A. The various superintendents at the works, as near as they could recollect, of course.

Q. I think you omitted, Mr. Mayer, to give the value of the building in detail at the 14th Street plant?

A. 14th Street?

Q. Yes.

A. I do not remember whether I did or not.

Q. No, you did not.

A. Do you want it?

Q. If you please?

A. 14th Street plant?

Q. Yes.

A. Office building, $6,752 without depreciation, $6,077 with.

Pay room, $2,762 without, $2,486 with.

Building over alley, $622 without, $560 with.

21929 Storeroom, $5,183 without, $4,665 with.

Boiler room, $5,630 without, $5,067 with.

Stack, $1,350 without, $1,215 with.

Q. Do you know when that stack was built?

A. No, sir, I do not.

Q. Why did you allow any depreciation for it?

A. For present condition and general appearance.

Q. What was its present condition and general appearence?

A. Such as would make me think ten per cent depreciation should be allowed on my valuation.

Q. Does it appear as if it had been built for 20 years?

21930 A. It is very hard to remember all those details now. If I was on the ground and had another look at it I could better answer that question.

Q. Did you make any memorandum at the time you inspected the plant?

A. Yes.

Q. Any memorandum which would inform you now if you had that data?

A. No, the matter of depreciation in a brick chimney is simply the impression it makes on a man competent to judge, and that is all I can say now. That is what I thought at the time.

Q. What did you say the value of that was?

A. $1,350 without, $1,215 with.

Q. By what process did you arrive at that valuation?

A. There was 56 cubic yards of excavation, 17,000 bricks, 36 piles, 500 feet of capping and planking.

Q. I understood you to say that you were not an expert nor did you pretend to be an expert upon anything else but iron. You are not an expert on brick work, are you?

A. No, I didn't say that. I have designed and built a great many buildings. 21932

Q. You might continue and give valuations.

A. Engine room, $4,400 without, $3,960 with.

Exhauster house, $4,315 without, $3,884 with.

Machine shop, $8,342 without, $7,508 with.

Smith shop, $8,843 without; $7,959 with.

Condenser house, $18,686 without; $16,818 with.

Q. Do you know when that was built?

A. About 1870.

Q. Do you know the year the machine shop was built?

A. The machine shop—1870.

Q. The exhauster house?

A. 1870. 21933

Shed, $4,090 without, $3,070 with.

Large purifier house, $50,160 without, $45,144 with.

Small purifier house, $15,839 without, $14,256 with.

Oxide house, $10,671 without, $9,604 with.

Meter house, $10,693; no depreciation.

Center seal house, $809 without; $729 with.

Center seal house, No. 2, same value.

Boiler house, $2,305 without, $2,075 with.

Valve house, $1,159 without, $1,043 with.

Brick walls around holder yard, $21,526, no depreciation.

Retort house, $200,980 without, $170,833 with.

Q. What year was the retort house built?

A. 1853.

Bench foundations, $36,360; no depreciation.

Scrubber house, $2,128 without, $1,915 with.

Brick walls on Avenues C and D, $423; no depreciation.

Brick walls on 14th and 15th Streets, $6,611 without, $5,950 with.

21935

Shed, $4,414 without, $3,972 with.

Q. Is that a coal shed?

A. That is a shed 75 feet 6 inches by 21 feet 6 inches by 17 feet, the first shed.

The next shed, $4,414 without depreciation, $3,972 with.

Coke passage, $24,343 without, $21,910 with.

Gas engine house, $1,658 without, $1,625 with.

Coal hopper building, $7,094 without, $6,952 with.

Coal shed, $167,729 without $164,375 with.

Yard between office and retort house, $4,707; no depreciation.

21936 Rigger house at end of coal shaft, $1,281 without, $1,163 with.

Small office, $100; no depreciation.

Coal and coke storage, $4,264; no depreciation.

Fencing and timber retaining fences around coke and coal storage, $10,305; no depreciation.

Boiler and engine house, $1,739; no depreciation.

Boiler house and well, $1,278 without and $1,253 with.

Boiler house, $1,017 without and $997 with.

Valve house, $169; no depreciation.

Exhauster house, $19,494; no depreciation.

Boiler house, $3,384; no depreciation.

Q. When was that built; do you know?

A. No, sir, I do not.

Q. The exhauster house—can you tell me when that was built?

A. No, sir, I cannot. There is a new boiler house in course of construction as noted in the addenda. The value of that building in its present condition is $6,000.

Tar and ammonia tanks foundations, $1,620; no depreciation. 21938

Coke office, $290 without depreciation, $261 with.

Boiler house, $3,800 without, $3,420 with.

Q. Can you tell when that was built?

A. 1865.

Clay mill and storage, $1,184 without, $1,066 with.

Storage shed, $1,475 without, $1,328 with.

Storage shed, $813 without, $732 with.

Stable, $8,143 without, $7,329 with.

Storage shed, $2,140 without, $1,926 with.

Carriage room, shed No. 1, $835 without, $752 with.

Pump house, $238 without, $215 with.

Storage shed, $3,279 without, $3,115 with. 21939

Storage shed and tank—

Q. Is that the same tank regarding which you testified before?

A. No, sir, $2,784 without, $2,645 with.

Storage shed, $1,320 without, $1,254 with.

Fences on east side of Avenue D and between 14th and 15th Streets also on 14th and 15th Streets; also on 17th and 18th Streets and between 15th and 16th, as well as westerly side of Avenue D between 14th and 15th Streets, and Avenue C between 14th and 15th Streets. Total $7,585 without, $7,206 with.

Holder yard, $904 without, $723 with.

Boiler house, $1,831 without, $1,648 with.

Weigh office, $1,368 without, $1,230 with.

One-story brick building, $149 without, $134 with.

Valve house, $168 without, $151 with.

Boiler house, $710 without, $639 with.

Foundation for tower scrubbers, $7,854; no depreciation. That is all.

Q. Now, in arriving at the valuation which you have given with regard to these buildings did you use the same formula as you did with regard to the other
21941 buildings in the other plants?

A. I did.

Q. Adopting the Kings County building as a model or standard?

A. Not as a model or standard but as a normal condition, to which in each instance where the actual condition differed from a normal one, the difference was added.

Q. You did not mean to be understood as saying that all the plants which you have examined are in perfect condition, do you?

A. No, where they were not I have noted their depreciation.

21942 Q. In figuring up the price of the brick walls in this plant, by what process did you arrive at their valuation?

A. I gave that several times in my testimony, by figuring the excavation and the brick, and stone work where there was such in the walls, separate.

Q. For instance, in this plant, what valuation or price did you fix on a thousand brick or brick per thousand?

A. $25 per thousand, laid.

Q. And did you adopt the same figure regarding

the laying of brick at all the other plants, where brick walls were concerned?

A. I did.

Q. At the present price of brick per thousand?

A. I gave that once before how that was made up in detail. Do you wish to hear it again?

Q. Yes, I would like to hear it again.

A. The price of brick obtained varies from $8 to $12. I took the average price of $10. For labor: Bricklayers, 800 bricks per day, $7; helper, $4; Portland cement, $2.25, sand and water, $0.80; foreman, at the rate of $7 per day, $0.50; timekeepers, $0.20; 21944
hod hoisting, $0.50; scaffolding, $0.16. Making a total of $25.41 for which I applied $25.

Q. Did you observe whether there was any vacant land surrounding this plant at 14th Street, belonging to the Consolidated Gas Company?

A. Vacant land? There was I think on the north side of 16th Street, where there was room for another coal yard, to which I have already testified as being supplied with foundations for a coal trestle for coal handling machinery.

By Mr. Mathewson:

Q. Which is now used as a cold storage yard, is it not? 21945

A. Now used as a cold storage yard.

By Mr. Burr:

Q. What is the size of that yard, do you know?

A. No, sir, I could not tell you.

Q. Is there not room for an extension of the plant at 14th Street?

A. No, sir.

Q. At what plants is there still room for an extension?

A. At none.

Q. Have you made a diagram showing the location of these buildings at each of the various plants?

A. No, sir, I have not.

Q. Then how are you able to swear that there is no room for an extension of the plant at any one of those locations?

A. From my general knowledge as a gas engineer all that it is necessary for me to do is to go through a plant and I could see at once whether there is room for an extension or not.

Q. Do you wish to be understood as saying that
21947 there is no vacant ground attached to any of these plants?

A. I was not impressed with the fact that there was sufficient room at any place to make a notable extension.

Q. A notable extension?

A. Yes, sir.

Q. What do you call a notable extension? The erection of an additional plant?

A. No, but an increase of from 30 to 50 per cent of the present capacity.

Q. 25 per cent you would not call a notable extension?

21848 A. No, not in large plants.

Q. So that we may say that there is room for an extension of 25 per cent on each of those plants?

A. No, you cannot say that at all. On the contrary, I do not think there is any room for any extension; that is what I said before.

Q. You said you did not think there was room for any notable extension.

A. Yes, that includes the first 25 per cent.

Q. Would it be a difficult job to map out or plot out on this Complainant's Exhibit number 48 the lo-

cation of each of the buildings at the various plants that you have testified regarding?

A. Not at all; it would not be difficult, no, sir.

Q. I would like to have you do that.

Mr. Mathewson: No, I shall not ask this witness, who is not called for any such purpose, to do that, and while it may not be a difficult job, it would be a job of exceeding length; it would require surveys and everything else. I do not think you appreciate what it would mean, Mr. Burr.

Mr. Burr: Would you allow us to do that? 21950

Mr. Mathewson: That is another proposition. I am not on the witness stand.

Q. Then you decline to do so by advice of counsel?

(No answer.)

Mr. Mathewson. I am not his counsel.

Q. Could you substitute nine retort benches for six retort benches in any cases?

A. No, sir, I could not.

Q. Could you, with the existing land and buildings in the Borough of Manhattan, increase the capacity of a coal gas works, by substituting nine benches instead of six, as now? 21951

A. I think it could be extended, at a comparatively tremendous cost.

Q. Will you explain a little further what that comparatively tremendous cost would be? What you mean by that?

A. The buildings would have to be changed to a certain extent, in order to accommodate benches of nine, with full depth generator furnaces and charging and drawing machines, which would cost very much more if the plant was built outright new in a different location.

Q. Then, do you consider that the locations occupied by these plants are not favorable locations?

A. No, not at all. If I had to build that plant over again new, of course, as I said, I would construct it differently, for the full capacity that it is now. For that particular district where that plant was originally intended to supply gas, the location was very favorable.

Q. Would you say, that taking all these plants together as a whole, they are up to date construction?

A. I have said the other day that if I was to con-
21953 struct them new for full capacity, I would construct upon different lines than those laid out, which is due to the fact that they were built in small units at the time and added to from time to time until they finally reached their present capacity, but if built for the whole capacity the basis of construction would be an entirely different one, of course.

Q. Would you say that these plants are in the most efficient condition, all of them, including the 111th and 114th Street?

A. I said before there was no manufacturing plant on 111th Street.

Q. I am speaking of it as a distributing station or
21954 plant, as you choose to call it. Embracing all the plants here, of the Consolidated Company, would you say that they are in most efficient condition?

A. Manufacturing plants you are talking about?

Q. Yes.

A. All the manufacturing plants are in as perfect condition as they can be under the circumstances under which they were developed to their present size.

Q. And those circumstances under which they were developed to their present size did not operate to make them up to date construction, did it?

A. Why no, it could not be so, because some of those plants originated away back in the fifties, when the plants as used today were not known, and the buildings were arranged for that character of apparatus. In order to change them, as I said before, it would cost tremendously to do it on the present site as compared with a new site.

Q. Is there anything to prevent the company from taking these plants one by one and reconstructing them and bringing them up to date, as far as construction is concerned, and increase the capacity of each one as it is rebuilt? 21956

A. There is no chance for any decided increase in capacity. As I said before, they can be improved with modern apparatus, but it would cost a great deal more to do it on the present site, as compared with a new site.

Q. When you speak of the new site, you are speaking of the site on which you are engaged in erecting the plant at Astoria?

A. No, I was not. I say a new site, any new site.

Q. Any new site?

A. Yes, sir.

Q. What was your estimate of the cost per cubic foot contents of a retort house? 21957

A. Under normal conditions, as in the instance of the Kings County works, 14.05 cents per cubic foot.

Q. Under normal conditions?

A. As existing in Kings County.

Q. Do you claim that those conditions exist here in the Borough of Manhattan?

A. Quite to the contrary; in most instances I found that they varied considerably; in many instances I found that there were excavations in rock and in many others pile foundations were necessary, owing to the locality. That changed the normality of the

conditions, and in that case I figured the abnormality separately and added that to the cost of the retort house as determined by the application of the unit price of 14.05 cents per cubic foot.

Q. Can you say how old the turntables were that you have testified regarding, Mr. Mayer?

A. No, sir, I cannot.

Q. Can you tell me what the life of a Root exhauster is?

A. No, I cannot. I never knew one to wear out outright. Those apparatus have always to be main-
21959 tained in such condition of repair that they do their work, and therefore the repairs always keep up the depreciation.

Q. What is the life of a boiler?

A. Well, that depends upon the handling of the boiler, the character of the coal and a great many other conditions and circumstances which prevent one from applying a general rule.

Q. Could you say what the life of the turntables are?

A. The life of the turntables?

Q. Yes, or the life of a turntable.

A. What I said before regarding the exhauster ap-
21960 plies to the turntable and all other apparatus in a gas works. In order to perform their function each and every day they must be kept in perfect repair continuously.

Q. I understood you to say that in making an estimate of value for some of this work, that you sought figures from contractors, and those who made special articles; is that true?

A. I would not call them contractors; I would call them manufacturers.

21961

Q. The manufacturers?

A. Yes, sir, that is, manufacturers of special articles which nobody else makes.

Q. Did you get more than one set of figures for any one article?

A. I could not very well do that, because the article manufactured by one manufacturer is not manufactured by another one.

Q. You asked the manufacturer of a particular article what he would supply that particular article at?

A. Yes, sir.

21962

Q. That embraced the delivery and setting up of the particular machine?

A. No, that only included the delivery.

Q. And then you added what you thought would be the proper figure for setting up?

A. For the erection, yes, sir; that is, not what I thought to be a proper figure, but what I knew to be the proper figure.

Q. Well, you are merely expressing an opinion here, isn't that all?

A. No, I am expressing my knowledge from past experience.

21963

Q. Now, I will ask you from your past experience and your present knowledge whether you can state accurately the extreme daily capacity of the 14th Street station from your own computation?

A. No, I cannot. I have not figured the sizes of the apparatuses in order to establish the total amount of capacity, but I know that such an amount of gas per day has been produced in those particular stations in each and every one of them many times and in some of them they have not quite come to the maximum and in others they have gone beyond the maximum.

Q. Would you swear in the 14th Street station, for instance, that they had reached the maximum capacity there and they could not produce more?

A. 14th Street you are talking about?

Q. Yes, sir.

A. Yes, sir, as I recollect, at 14th Street they had produced the capacity that I stated the plant to have, within a small fraction.

Q. Well, what I am asking you, Mr. Mayer, is whether you wish to be understood as saying that they could not produce more than the figure you have
21965 given? I want to know whether that is really the maximum capacity of that plant, or whether it is not the fact that more gas could be produced there than the maximum that you have given?

A. If you ask me that question, I would have to figure the capacity of each and every apparatus of the plant before I would be able to make a decided answer.

Q. So therefore the capacity which you give to each one of these plants is not the capacity arrived at from your own computation?

A. No, sir, it is the capacity which was given me by the various superintendents.

21966 Mr. Mathewson: It is already on the record and has been testified to.

Mr. Burr: It is not on the record that this capacity was not the result of his own computation.

Mr. Mathewson: No, but the capacity is already on the record as testified to by Mr. Bradley and he took the same capacity as Mr. Bradley did.

Q. Mr. Mayer, you have stated that the 111th Street coal gas works of 2,500,000 feet daily capacity, or

500,000,000 feet annual capacity, are lying idle, and I want to ask you, could not those works be completed and more than doubled in capacity, at a reasonable expense?

Mr. Mathewson: He has not testified to any such thing as that, Mr. Burr; I am quite sure he has not.

A. I have already stated in connection with my testimony for that plant that the benches in this plant could not be used except in connection with some other station, where there were exhausters, condensers and purifiers? 21968

Q. Isn't there room to put exhausters, condensers and purifiers?

A. Nothing like for the capacity of the benches. I presume that a portion of that ground was taken from the other side which has now been converted into a holder storage yard.

Q. When you say the other side, to what do you refer?

A. The other side of First Avenue.

Q. Isn't there room on this block bounded by 110th Street, 111th Street, First Avenue and Pleasant Avenue, for the construction of the additional buildings which would be necessary to increase or practically double the capacity of that plant there? 21969

A. Nothing like it, because you would have to provide for a coal storage at the same time if you supplied such a large plant as that. It would be altogether too small.

Q. It would be altogether too small?

A. Yes, sir.

Q. What space would be required in your opinion, to enable that plant to be doubled in capacity.

A. There is no plant there now; there is only a retort house there, only a part of a plant.

21970 Frederick J. Mayer, Cross.

Q. I mean the buildings which would make it a plant capable of doubling the capacity which you say it has the ability to provide each day now.

A. I beg your pardon, I did not say there was any ability to produce any amount at that works except in connection with some other works where there are exhausters, purifiers and condensers. Upon this station there is only part of a plant, only the generating plant consisting of the retorts and benches.

Q. I asked you what space additional beyond what is here now used by the Consolidated Gas Company
21971 would be required to put up those buildings you speak of, the exhausters and condensers.

Mr. Mathewson: And provide for coal and coke storage?

The Witness: A plant not less in area than the 14th Street works, which is 5,500,000 cubic feet.

Q. Which of the holders are the more recently constructed.

A. This one at 132nd Street.

Q. And what is the holder that is next to that?

A. 111th Street, I think, the two at 111th Street.

Q. Did your firm build the one at 132nd Street?

21972 A. Yes, sir.

Q. And also the two at 111th Street?

A. Yes, sir.

Q. And what other holders did your firm build?

A. Here in New York?

Q. Yes, in Manhattan.

A. Well, we built holders for all the companies more or less, and particularly all the large holders, every one of them without exception. We built formerly the holder in brick tank at 63rd Street. We built another one at 65th Street, I think of 4,000,000 and

21973

3,000,000 cubic feet capacity, respectively; and a great many others which I cannot recall just at the present moment as to location.

Q. Now, you say you took the rate of wages, shop and field, from your construction work?

A. Construction accounts.

Q. To what construction account do you refer?

A. To the construction account of the firm of Bartlett, Hayward & Company.

Q. How recently?

A. To date.

21974

Q. Were these construction accounts made in connection with the construction of any particular plant?

A. Every one of them; when a particular contract is finished we know to the thousandth part of the cent; we know every mill that has entered into that construction.

Q. You say that in connection with the boilers of these various plants regarding which you have testified and given a value you cannot say when any of them were first used. You don't know the life of the boiler, in other words?

21975

A. No, I did not make inquiries regarding that. I found that they were all in perfect condition and operated to the full pressure allowed them, and as this was not a low pressure in any instance, there was no reason for making any further inquiries. If any defects are developed, they are at once made good.

Q. Then you can fix depreciation without knowing when they were originally in use?

A. The same as I can with an engine or any other apparatus, the general appearance of that apparatus indicates to me the approximate depreciation I should allow as a practical engineer.

Q. Are you engaged now in any construction work in Astoria?

A. I am not, no, sir.

Q. Have you finished all that?

A. My firm is. I have severed my connections with the firm and therefore I answer your question that way.

Q. And you left the firm in July last?

A. I left the firm actually in December last, but practically on May 1st.

Q. When did you start in to appraise these plants?

A. Oh, I don't know, about seven or eight weeks ago, I don't recall the exact date. I have the exact
21977 date but could not tell it just offhand. I think it was around the 8th or 10th of July. I think it was the 8th of July, if I remember rightly.

Mr. Burr: That is all I want to ask.

By Mr. Page:

Q. I intended to get, if Mr. Mayer was willing to do so, a statement bringing together the different coefficients at which he estimated the prices and cost?

A. Do you mean a copy of this paper?

Q. I don't know what that is.

A. Those are my coefficients of cost or my factors in making up the coefficients.

Q. That is what I meant, one statement.

21978 Mr. Mathewson: Do you mean as to each one of these various apparatus he has testified to?

Mr. Page: Yes, his prices on which the coefficients of cost were based.

Mr. Kirby: And materials entering into the construction.

Mr. Mathewson: Hasn't he stated them already?

Mr. Page: He has stated some of them. I mean how he arrived at that.

The Witness: I have given you all the material

cost for the apparatus and given you the holders and condensers.

Q. Have you given what it cost for cast iron?

A. I think I have given you the cost of cast iron and wrought iron condensers and purifiers in detail, I think in my testimony already.

Q. What is there that you have not given?

A. That is all that I recollect at the present moment. All the others I have not given, but they do not vary much in character.

Q. Have you used the same price for cast iron, for instance, in all apparatus? 21980

A. Yes, sir, I have stated that my price for cast iron is based on the material, to which must be added the melting of the iron in the cupola, and to that is applied my unit for cast iron. It is the same thing in each and every instance, because it only represents the iron in a melted condition ready to leave the cupola.

Q. Have you given the wrought iron?

A. I have given you the price today. The prices are the prices quoted by the mills.

Q. That applies to all kinds of apparatus, doesn't it?

A. To all kinds of apparatus, yes, sir. 21981

Q. And steel the same way?

A. Steel the same way, yes, sir.

Q. Whether it is steel plate or whether it is steel in bars?

A. I have given you the prices for the bars and for the plates and for the mill plates and for every kind of plate separately.

Mr. Page: All right, I will withdraw the question if you think it is sufficiently on the record.

RE-DIRECT EXAMINATION BY MR. MATHEWSON:

Q. Mr. Mayer, has your firm of Bartlett, Haywood & Company, and have you, as their chief engineer constructed gas plants complete, including buildings, apparatus and yard connections and holders?

A. Yes, sir, quite a number of them.

Q. So that you are familiar with the construction and the cost generally of all these different parts of a plant?

A. Generally and in detail.

21983 Q. Referring to your valuation of buildings, you stated you took as a standard the cost you had derived of one building of the same character, say a retort house, and you applied that to another retort house and computed the value of the second retort house upon a proportion between cubic contents of the two?

A. That is right, sir.

Mr. Page: I prefer that the witness should state it rather than have counsel testify.

Mr. Mathewson: He has already stated that, and I am only reciting it as a preliminary to a question.

21984 Mr. Page: All right, I was just calling attention to the fact. I do not press the objection.

Q. If you have one building 50 feet by 50 feet, a retort house, and compare that with a building 100 feet by 50 feet, is it not a rule that the larger building—

Mr. Page: Had you not better say what is the rule?

Mr. Mathewson: No, I do not think so.

Q. (Continuing.) —should have partitions or buttresses of trusses or thicker walls at the base or some-

21985

thing else in order to preserve the same structural strength as the smaller building?

A. Yes, if you remove the partition and double the building, it becomes necessary to obtain the requisite resistance, which a partition wall would have had had it been permitted to remain in place, by some other means; and those means are either the increase in the thickness of the walls, or pilasters or increase in the thickness of pilasters or the addition of buttresses in the middle of the wall.

Q. Did I understand you to say that in the buildings you included the foundation of apparatus also?

21986

A. In my unit prices of buildings?

Q. Yes.

A. The foundations of all apparatus in that particular building are included.

Q. I want to ask you whether this method of computing the value of one building by taking the standard derived from the cost of a similar building and comparing their cubic contents is one which is employed or recognized by engineers outside of yourself?

Mr. Page: I object to it as immaterial and irrelevant.

21987

The Master: I will allow it.

Mr. Page: Exception.

A. I have very often in discussing prices of buildings with other engineers and with builders and contractors, heard the same rule applied. It is a quick method of arriving at practically a correct figure for an aggregate number of buildings.

Q. Have you ever compared in your experience the results of estimates made in this manner with the actual cost of the structures as they turned out?

A. In all my construction records, when the same

are finished, I convert the actual cost of the buildings upon a basis of this kind, that is, I establish the actual cost upon a basis per cubic foot of content.

Q. According to your experience how do those compare with the actual cost, the estimate made in this manner?

A. Absolutely correct, for present conditions?

Q. Why didn't you, Mr. Mayer, in this case proceed to take the measurements and compute the cubic feet in buildings and foundations and so on, instead of pursuing the method which you have in estimating
21989 the value of these buildings?

A. To do that, it would have really meant to make a detailed estimate based upon plans and specifications, therefore such a method could not be applied in this instance for the reason that I should have had to make detailed plans and specifications, before I could make an estimate of that kind. To do that it would have taken not less than nine months for all the buildings in the various plants which I have examined; besides which I was satisfied that the method which I applied was just as correct for the aggregate number of buildings as it would have been by making detailed drawings and plans and specifica-
21990 tions of each building.

Q. Where you or your firm is called upon to make a bid for the construction of buildings, are not the specifications and dimensions all presented to you so that you have the material before you upon which to compute the cubic feet of brick, and so forth, where bids are asked?

A. For bids in connection with gas works we generally design the buildings ourselves and submit them to the various builders ourselves, therefore, I have the intimate knowledge that I do have as to what the

buildings would cost if constructed by other contractors.

Q. Referring now to apparatus. Is your firm a constructor of gas apparatus?

A. We are, sir.

Q. You are not contractors alone, but manufacturers, as well?

A. Yes, sir.

Q. What proportion of the apparatus of the gas plants as they are here are manufactured by your firm, or can be?

Mr. Burr: When you say "here," you— 21992

Mr. Mathewson: New York, of course, Manhattan.

A. All with the exception of a few apparatuses of special construction, such as engines, exhausters, blowers, and boilers; and in the instance of a water gas plant, the generating apparatuses which we always purchase from the United Gas Improvement Company, considering them the best in the country.

Q. What per cent of the apparatus in a plant of this kind would your firm be able to manufacture?

A. I should say 90 per cent and over. I believe I could say 95 per cent and over. Perhaps in the instance of a water gas plant, the percentage would reduce to 85 per cent. 21993

Q. In making your estimates of the cost of apparatus to which you have testified where that apparatus is manufactured by Bartlett, Hayward & Co. did you proceed upon the same basis as you would if you were submitting a bid?

A. Absolutely the same basis.

Q. Do you proceed in that way upon the basis of weight?

A. Yes, sir.

Q. And in valuing all these pieces of apparatus to which you have testified, have you gone into the same detail in estimating the value, that is, the cost of the raw material, the shop labor, the labor in setting up, and other things that you have testified to in respect to one or two items regarding which you were asked?

A. I have and I could not do otherwise. I could not go to a work and value approximately a piece of apparatus to save my life, I am so used in making detailed estimates.

Q. Have you seen yourself all the apparatus you
21905 have valued?

A. Every one of them.

Q. Now, in reference to this estimate by weight, is it possible where you estimate apparatus or machinery for you to determine the weight?

A. Yes, sir.

Q. With what exactness?

A. With absolute exactness.

Q. In other words, the weight of cast iron or steel is substantially uniform, isn't it, for the same volume?

A. Per unit of surface or volume, yes.

Q. So that would you consider the weight of the apparatus to which you have testified as an estimate
21906 or as an exact thing?

A. As an exact thing.

Q. And you then apply this cost of cents per pound figured out in the details to which you have testified?

A. Yes, sir, and it makes it equally as exact as the weights.

Q. How do you regard the 15 per cent profit which you have added for contractors? Is that an excessive or an ordinary profit in your experience?

A. I have only added fifteen per cent profit, you say?

Q. Fifteen per cent for the original contractors.

A. For the profits?

Q. Yes.

A. Well, I consider that as an extremely low profit, but it is all that can be obtained under the present conditions of competition, and in my opinion it should not be less than twenty per cent in order to get out whole out of the contract.

Q. Have you and your firm bought during the past year considerable apparatus of a special character which is not manufactured by you; that is to say, boilers and so on, to which you have referred? 21998

A. Well, not a great deal because that is such a small percentage of the total plant.

Q. But you have had experience in buying that, have you, so that you know the value generally?

A. Oh, a great deal of it, particularly in the instance of the exhausters and blowers. Not so much in the instance of the boilers because that is an article anybody can buy in the open market, in any locality.

Q. And in making up your estimate of that part of the apparatus did you apply to the manufacturers to give their figures, to confirm your own impressions, or otherwise? 21999

A. I did; and as I said the other day they were low figures because they have to give us lower figures than they do the gas companies.

Q. I want to ask you whether the ten per cent which you have added to these costs and which you stated covered the engineering expenses of the company in installing the plant and the sewering of the plant and other items, is recognized by engineers in general as an additional charge to make up the total cost of the plant?

A. Yes, sir.

Q. Did you say whether you made a personal investigation of your own records to find out whether that was a proper figure?

A. I did.

Q. And what was the result?

A. It was nearer fifteen per cent than ten per cent. That includes all the charges I have enumerated in the first or second day of my testimony; of the items, I should say.

Q. And to holders you added only five per cent?

A. Only five per cent.

22001 Q. For that item?

A. Yes, sir.

Q. Now, as a matter of fact in your experience is a plant which has been built up for the last sixty or eighty years to supply gas, being increased in capacity from time to time as the requirements of the consumers increase, in any instance exactly the same as a new plant which you would install for the full capacity if you were to do it over again today?

A. No, sir. If I should build a plant for the full capacity it would be built on different lines.

Q. But where a plant is built up in this way, is it ever possible to get it exactly on the lines as you
22002 would produce it today new?

A. Not at all.

Q. Did you observe the plants in operation as you went through them?

A. I did.

Q. You observed whether they were operating efficiently and simply.

A. Yes, sir.

Q. And wherever you found anything not in use, have you so noted it and testified?

A. I believe in every instance, as near as I could.

Q. Would it be economy, for instance, having benches of 6's operating properly, to tear those benches out and put in 9's because the consumption had increased?

A. No, it would not in these plants, for the reason that the benches of 9's would require entirely different areas than the benches of 6's, and that would in all probability entail a loss in capacity instead of an increase for the reason that the benches of 9's would have to be constructed upon the same foundations as the benches of 6's and these foundations may be entirely inadequate to support the same capacity in 22004 benches of 9's.

Q. You have spoken of benches with regenerative furnaces and spoken of the regenerative furnaces as being somewhat economical. What is the comparison in cost between regenerative furnaces and the ordinary furnace?

A. I figured these, as near as I can remember now, for benches of 6's of ordinary construction, at $2,210, I think I gave the price or the value. The same bench with the full depth regenerator furnace would cost today $5,600.

Q. In other words, more than twice as much?

A. More than twice as much. 22005

Q. You have asked in reference to steel tanks and brick tanks. How long has steel been used in the construction of gas tanks for large holders?

A. I should say about 18 years; 18 to 20 years.

Q. So that prior to 1884, tanks had not been constructed, had they, of steel?

A. There was no steel made at that time for such apparatus.

Q. Have you computed, or added together, your figures so as to show the cost of reproduction of these plants of the Consolidated Gas Company as they now

exist, reproduced new, without allowing for depreciation?

A. Yes.

Q. Just give me the grand totals.

A. For the plant, $12,537,262; for the holder stations, $3,600,215, making a total of $16,137,477.

Q. That is exclusive of the 18th Street plant, which has been taken by the city?

A. Yes, sir, exclusive of that 18th Street plant.

Q. If each plant were to be reproduced, I suppose it would be necessary to reproduce them new? You
22007 could not reproduce depreciated plants?

A. Not very well.

Q. And whether you observed any deterioration in this apparatus in going over it, or any machinery, did you in every case note it, and have you included it in your figures?

A. Wherever there was any I have included it.

Q. You were questioned as to whether the plants of the Consolidated Gas Company could not now run continuously at their maximum daily capacity. Do you mean that they could run every day in the year at the maximum daily capacity?

A. Every day in the year. But what I mean by that
22008 is in gas works construction we always base a yearly production on a period of two hundred days. All my references to capacities are based on that factor, that is, 200 days per year instead of 365 days.

Q. You would have to have time down for repairs, wouldn't you, in the plants?

A. Yes, sir, and that is taking up the balance of the time.

Q. And during the summer season of course there is no requirement for the maximum output of the plant?

A. No, sir, there is not.

Q. And then the maximum annual output of these plants would be obtained in your judgment, would it not, by multiplying the maximum daily output by 200?

A. Yes, sir.

Q. Are you able to state generally whether the cost of buildings is greater today than it was in 1884, or less?

A. As compared with 1884?

Q. Yes.

A. The cost today is considerably more than in 1884. 22010

Q. How about apparatus, speaking generally, if you can state?

A. A great many apparatuses cost less today. The reason for that is that in some of them or many of them the patent has expired and no royalties are to be paid today, and in other apparatuses the competition at 1884 and previous to 1884 was such that enormously high prices could be asked at that time which is not the case now. I know that ordinary bench castings have been sold for a price at least 60 per cent higher than you are able to obtain for them, at the present time which was only due to the fact that competition was exceedingly small. 22011

Q. Is your firm of Bartlett, Hayward & Company a large producer of gas apparatus, or small?

A. We employ at present in the neighborhood of 2,000 men and have been doing that almost continuously for several years.

Q. Do you know how they compare with other manufacturers as to amount of manufacture; as to output?

A. Bartlett, Hayward & Company manuafacturers very much more than any other manufacturer of gas works in this country.

Q. How about the construction of gas works and apparatus. How do they stand as to amount?

A. The same condition applies there.

Q. They are the largest constructors in this country?

A. Yes, sir.

Q. Referring to the 14th Street plant, you spoke of $48,000 for purifiers in the large house, or about that. Did that include the center seals?

A. Yes, sir.

Q. Are you sure about that?

22013 A. Yes, sir, but not the connections between the center seals and the purifiers. Oh, I beg your pardon, what did you say, 14th Street? It is possible I may have given the center seals extra.

Q. Well, I would like to know?

A. Yes, sir, center seals are included.

Q. In reference to the 21st Street plant, which is now a water gas plant, you stated, I think, that the buildings were now crowded with water gas apparatus?

A. Yes, sir.

Q. And you were asked if whether buildings were to be constructed now they could not be constructed for

22014 less. If you were asked to lay out and plan a water gas work of same capacity as 21st Street, today and had the room, would you confine yourself to the buildings at 21st Street, or would you build larger ones?

A. I would build larger ones.

Q. With more space?

A. More space, yes, sir.

Q. And more expensive buildings?

A. And more expensive buildings, yes, sir.

Q. Do you know that the capacity of the 21st Street

works has been increased since it became a water gas works much beyond what it was as a coal gas works?

A. Yes, sir.

Q. When you speak of $123 per thousand as the value of the water gas plant, do you include any holders in that?

A. I do not.

Q. What do you include?

A. Only the plant itself, without any holders.

Q. Generating plant?

A. Generating and purifying plant, condensing plant, the entire plant except holders. 22016

Q. Does it include the general connections?

A. Yes, sir, everything except the holders.

Q. The term operating plant was used in asking you some questions in reference to these various plants of the Consolidated? Are not all of them operating either as manufacturing plants or as distributing stations?

A. Yes, sir.

Q. When you use the term "operating" what do you mean?

A. Manufacturing. I do not recall now how often I used that and just in connection with what statement, but I do believe under the term of the operating plant 22017 I should mean a manufacturing plant, that is a gas producing plant.

Q. You were questioned as to a building at 18th Street enclosing some holders there. Is that form of construction, enclosing holders in a building in use anywhere today?

A. No, I believe it has been universally abandoned, even in severer climates.

Q. Was it formerly a construction that was recognized by engineers?

A. Well, yes, it was used many times. I have constructed some of those buildings myself.

Q. Does not that reduce the cost of taking care of apparatus inside?

A. Yes, sir.

Q. Saving the expense of cleaning snow off the holders and doing various other things?

A. It was not so much the expense entailed in cleaning the holders from snow, but at that time it was considered dangerous or almost an absolute impossibility to clean holders in severe climates as Canada or Chicago from snow during heavy storms. By better and improved construction of the holder recently
22019 we have applied complete stairways extending from the ground level to the top, so any portion of any holder, no matter how large, can be conveniently reached by the men that go on top to shovel off snow.

Q. Is there any wall around outside of this building at 18th Street, or does the building form the wall between the premises and the street?

A. Well, just the side walls of the building of course from the enclosure for the holders.

Q. So that if the buildings were not there at all and were roofed would there not be any necessity for a surrounding wall to surround the enclosure?

A. I don't understand you.

22020 Q. If there were no building there roofed in, would there not be required a wall to surround the premises, that wall now being part of the building wall?

A. That wall would be very much lighter and, of course, very much lower.

Q. Oh, of course, but there would be some requirements for a well or some method of enclosing the premises?

A. Yes.

Q. Is it feasible or desirable in your judgment as an engineering proposition to have a single unit or

plant to produce 41,500,000 cubic feet of gas daily, or is it necessary to have units in that case?

A. You mean as an entire plant?

Q. Yes.

A. Including, purification, condensation and everything that makes up a plant?

Q. Yes.

Mr. Page: A water gas plant.

Mr. Mathewson: We are talking about gas in general. We will come to that later.

Mr. Page: My question was directed to the water gas. 22022

Mr. Mathewson: I am questioning the witness now. Mine was not.

A. No, I should consider that not only as improper, but as a very expensive method of building a large gas works.

Q. What, in your judgment, would be a fair limit of the capacity of a single unit daily?

A. The same limit as applied in the new works for the Astoria Light, Heat and Power Company; that is 20,000,000 feet per day, for coal gas.

Q. And after you pass that limit, isn't each unit in effect a new plant?

A. Yes, sir. 22023

Q. Would there be in your judgment any special economy in the production of gas after you had reached an output of say 600,000,000 or 700,000,000 feet a year for any increase beyond that?

A. No, in my opinion there would be absolutely none, for the reason that when you arrange a plant of say 20,000,000 feet capacity so that your manual labor and your machine labor are continuously employed during a certain time entirely, in other words, if you get all out of the manual and machine labor that can possibly be obtained that limits the capacity of your

plant. Will you excuse me, I just want to correct that. I won't say limits the capacity; I will say determines the limit size of the plant.

Q. Do you remember what the discount was which you allowed upon the construction of a single holder by reason of the contract for three or four 5,000,000 cubic feet holders? Do you remember the percentage, whether it was 1 per cent or 2 per cent, or what?

A. No, I have not figured that on that basis at all. What we allowed was, of course, that reduction in the material for the four holders. Of course, it is quite
22025 an inducement for the mills to make a special price when they get an order for such a large amount of material.

Q. Do you remember whether the reduction was slight or a very large one?

A. I cannot recall just how much that was, but it was very nearly equal to the difference in the cost and the difference in the valuation and that of actual cost, with the exception of the labor item to which I referred before.

Q. In practical construction would you be called upon to build at the same time all the holders that now belong to the Consolidated Gas Company, under any
22026 conceivable circumstances?

A. Absolutely impossible. I could not make the schedule to order the iron or street at the same time so as to make an inducement to the mills to reduce the price.

Q. And holders are constructed as additional requirements for them arise?

A. Yes, sir.

Q. Increase of consumption?

A. Yes, sir.

Q. And new distributing stations?

A. Yes, sir.

Q. You have given a total value for the 99th Street plant of nearly a million dollars. Will you state how much of that is presented by you as the value of these hydrogen scrubbers respecting which so much time has been taken?

A. You mean how much of the total?

Q. Yes, as to how much those hydrogen scrubbers stand for?

A. At 99th Street?

Q. Yes.

A. $1,560 without depreciation; $1,485 without the 10 per cent and 5 per cent. 22028

Q. $1,485?

A. Yes, sir.

Q. Now, in reference to the scrubbers, in the manufacture of coal gas, is it not the fact that scrubbers bear some rather fixed relation to the amount of gas which passes through them or which has to be scrubbed?

A. Yes, sir, that is a fact.

Q. You have said, however, in relation to the water gas, that there must be a minimum provision for the scrubber, but after you get beyond that, isn't it largely a matter of discretion, in the operator as to the kind of scrubbers that shall be used? Is there any such 22029 fixed relation as there is in connection with coal gas?

A. No, there is not.

Q. I finally ask you whether from your observation of these plants, knowing that they have been built up during the last sixty or eighty years, you consider the plants as efficient and in good condition or otherwise?

A. I believe I have already stated that in my testimony. I think all of the plants that are operated today for the manufacture of gas are as perfect as can be made under the conditions under which they were built and developed.

RE-CROSS EXAMINATION BY MR. PAGE:

Q. Would you place the same limit of capacity for a profitable reproduction of gas works, or a water gas works, that you have on a coal gas works of 20,000,000 cubic feet per day?

A. No, I should increase the total capacity per unit of plant very considerably.

Q. You could construct one plant that would produce 41,500,000 cubic feet of water—per day?

A. Very easily, but it would contain a multiplication of units of even smaller generating capacity than
22031 I had in my mind when I gave the limit of capacity for a coal gas plan as 20,000,000 for the simple reason that a water gas apparatus for 5,000,000, 10,000,000 or 15,000,000 cubic feet per day, is a self-contained apparatus in itself all the way through; whereas in a coal gas plant, you have to have a certain number of benches, and that changes the conditions entirely, so that a water gas plant could be almost increased to any total capacity by simply adding those additional smaller units one alongside of the other.

Q. So that there is practically no limit to the economical production of any one plant of water gas, no limit of capacity, I mean?

22032 A. No, you could keep on adding water gas apparatus and call each one of them a unit of the total plant, providing you were to increase your purification in the same ratio in proportion to the generating apparatus, it would really mean a multiplication of smaller units than in the instance of the coal gas plant.

Q. That is, it requires less purifying capacity to purify water gas than it does coal gas.

A. No.

Q. That is, you can purify more water gas than you could coal gas with the same purifying boxes?

A. No, sir, I said just now when you come to the

purifiers, you have to build your purifiers in proportion to any accepted number of units that you might call a plant.

Q. As I understand it, you have taken as a unit or maximum unit which you can use in a coal gas plant, one that produces 20,000,000 cubic feet of coal gas?

A. Yes.

Q. Now, what is your maximum unit of capacity of water gas plant?

A. Well, I should say that you could build a water gas plant of double that capacity and call it a unit, provided, as I said before, that your purifying apparatus and all other apparatus are in proportion to the generating plant. 22034

Q. Then you could very easily construct a coal gas plant of a capacity of 20,000,000 cubic feet per day and a water gas plant of 40,000,000 cubic feet a day, making a total capacity of 60,000,000 cubic feet?

A. Yes.

Q. Now, you spoke as if the maximum of your capacity was 200 days.

A. 200 days, yes, sir.

Q. It is not required merely for the purpose of repairs and renewals that a plant should be shut down for 165 days in the year, is it? 22035

A. No, sir, the 165 days means that it takes care of the wear and tear and necessary repairs besides the variation in gas production between summer time and winter time. If you average the total you will find it is about applicable for two hundred days a year.

Q. Now, if you had a condition where the summer demand equalled the capacity of the works, could you run the works right through the summer?

Mr. Mathewson: An impossible assumption.

Mr. Page: Not at all.

Mr. Mathewson: Yes.

A. Could I run it through the summer?

Q. Yes.

A. You mean to say six months?

Q. Could you run 300 days, we will say?

A. On a full capacity.

Q. To the maximum capacity.

A. It would be impossible; you have to have time for alterations and to replace wear and tear.

Q. How much time is it necessary to repair and replace wear and tear in a plant?

A. Well, I know that under present conditions
22037 where we figure the 200 days' continuous operation, that the balance of the time is used up to the last minute in making necessary repairs.

Q. Then it has nothing to do with the increase of the demands in the summer, but the 165 days are consumed in repairs; is that right?

A. As I said before, both wear and tear and the decrease in making of gas and the demand for gas; that is all taken care of by that difference in time, being 165 days.

Mr. Mathewson: That has all been gone over; it seems to me it is clear enough; but perhaps it is not.

22038 Q. You say that in constructing a gas plant it has been your custom after completing a building of any particular kind, to reduce that to a per cubic foot standard?

A. Yes.

Q. But in the estimate which you have given of the values of the buildings in this particular plant, you have used merely the comparison of the Kings County Buildings? That question can be answered yes or no, I think.

A. I have applied them as a standard.

Q. Applied the Kings County buildings alone as a standard?

A. Yes, sir.

Q. Now, in giving the dimensions of the U. G. I. water gas machines as you have, have you given the same dimensions as would appear on their catalogue, where you state that it is 11 feet by 20 feet, we will say.

A. I have obtained these dimensions at the various works where I found the apparatus, and then asked the United Gas Improvement Company for the price of the apparatus. 22040

Q. Have you taken the measurement of the outside of the shell, or did you measure inside of the brick-work?

A. No, I took the measurement outside of the shell in each and every one of the apparatus.

Q. Is that the way they catalogue it?

A. I do not know that they have any catalogue, I never saw any.

Q. Is that the way they catalogue it?

A. I do not know that they have any catalogue, I never saw any.

Q. You say in making your estimates of units, you have allowed a manufacturers' profit of only 15 per cent? 22041

A. Yes, sir.

Q. Haven't you also allowed 10 per cent additional for contingencies?

A. I have, and in the instance of the holders I think it is 15 per cent.

Q. You stated that in your going through these plants you observed that they were operating efficiently. What did you mean by that. That they were making gas?

A. That they were making gas without any appar-

ent difficulty, in the ordinary manner in which it should be produced. I could not see any difficulty in any way, shape or form in any part of the plant.

Q. You did not take into consideration the amount produced of gas, per pound of fuel used, or anything of that sort, that would go into the cost of operation, did you?

A. I did not examine the operating results at all.

Q. What you mean then, when you say you saw them working efficiently, is that they were manufacturing gas, and that gas was being run through the
22043 different apparatus?

A. That is it.

Q. Benches of 9, with a generating furnace, is a more economical and efficient method of producing coal gas, is it not, than it is by benches of 6 directly fired?

A. Yes.

Q. Then, did you estimate that a bench of sixes by direct fire was depreciated in value by the fact that a more modern and recent apparatus, and a more economical apparatus had come into existence when you made your estimates here?

A. I only ascertained the depreciation upon the present conditions and the appearance of the benches.
22044

Q. That is, you took a bench of sixes produced with a direct fire furnace and compared that with another bench of sixes with a direct fire furnace that was in existence?

A. That was it.

Q. But you made no allowance or depreciation on account of the fact that a more economical or efficient apparatus was in use now?

A. I did not, sir.

Q. How did you get at your value or cost price of a full depth generator furnace at $5,000 per bench?

A. From the estimate which I only recently made, within the last two months.

Q. Is that in the City of New York, or for use in the City of New York?

A. No.

Q. Where was it?

A. Indianapolis.

Q. Can you give me the result of the computation which you made to arrive at the cost price of $5,000 per bench for a full depth generator furnace, at nine to the bench?

A. The price has not been submitted yet. 22046

Q. I want to know the figures, never mind about that particular estimate, I want to know the various figures that would enter into a computation that would show $5,000 as the cost of the bench?

A. I know that that figure is right from my own knowledge and experience in the construction of benches, that is, for a retort of 10 feet long. If it was a through retort, 20 feet, the price would be double. The price of a 20-foot inclined retort is $12,000 at the present time. This would only be $11,000, being a horizontal retort of the same length, 20 feet.

Q. Then, do I understand that you cannot give the figures that would show that cost, or that you do not 22047
wish to.

A. I have stated just now that all my prices would be nearly $13,000 for a bench, 20 feet inclined retort. For a horizontal bench, a new bench would be about $11,000. The price I have given is $5,500, which is one-half.

Q. It is $5,000 as I remember it.

A. These are the regular market prices for the apparatus at the present time.

Q. You do not go out in the market to buy a bench of retorts, did you?

A. Perhaps I should not have said market prices, but prevailing prices for that kind of construction.

By Mr. Mathewson:

Q. Does that mean installed?

A. That means erected on foundations not including foundation. I am erecting such retort benches now in the State of Massachusetts, and I have just finished another installation in Massachusetts, at about those prices.

Q. How much more does it cost to make a full depth than half depth?

22049 A. Well, the price for a half depth bench, ten foot long retorts, would probably be in the neighborhood of $3,500—between $3,500 and $4,000.

Q. Now, as I understand it, the only reason that it is impossible to reproduce the holders at one time is the fact that you could not make plans and specifications and get them to the works rapidly enough to secure contemporaneous construction, is that right.

A. That is not the reason. I can make plans and specifications in a comparatively short time, but the mills would certainly object to accepting them for all the material required to replace all the holders in the City of New York, because it would extend for a

22050 period of five or six years, and maybe longer, and they would not give prices in advance for that period of time.

By Mr. Burr:

Q. Would you not say that the more improved a plant is in construction, the better the gas and the lower it cost to manufacture?

A. As to the quality of the gas I should say no. There is no reason why the quality of the gas should not be as good in a plant that was constructed some time ago as compared with construction today. As to the cost of production I should say it would be less,

when you consider the application of machinery to replace manual labor in connection with improved apparatus.

RE-DIRECT EXAMINATION BY MR. MATHEWSON:

Q. Referring to the plants of the Consolidated Gas Company, only the 42nd and 14th Street plants are now coal gas, you testified. Can you tell the total capacity of those two plants?

A. 14th Street, 5,000,000 cubic feet; 42nd Street, 4,500,000 cubic feet.

Q. That is 9,500,000 cubic feet together? 22052

A. 9,500,000 cubic feet total.

Q. The total capacity of the plants to which you have testified, of this Consolidated Gas Company, is something over fifty millions, is it not?

A. Excuse me one moment. I will add it up. Fifty-one million feet exactly.

Q. So that the water gas plants would represent out of that fifty-one million how much, taking the 9,500,000 cubic feet out?

A. Well, there is nearly four-fifths approximately.

Q. In feet, how much.

A. 41,500,000 cubic feet.

Q. Did you not testify that as far as those gas 22053 plants were concerned that they had the most improved apparatus and up-to-date installation?

A. I did.

Q. Do you know of any way in which they could be improved, that apparatus?

A. I do not at the present time.

Q. Referring now to the possibility in a single plant of producing 40,000,000 cubic feet of water gas per day, so long as the water gas units are distinct, would there be any particular advantage in aggregating all that 40,000,000 cubic feet together in one plant?

A. None whatever.

Q. Would it not have the disadvantage that in case of explosion or something of that sort it might put the whole plant out of operation?

A. As to the purifying capacity, that may be the case, yes.

Q. And as to blast pipes?

A. Well, yes; that might affect individual apparatus, but not the whole plant.

Mr. Page: I want to make a motion to strike out the testimony of this witness as immaterial and irrelevant to any of the issues here. First,
22055 that the company ought to be allowed for the plant, the actual value of a plant built today that would produce the same amount of gas at this plant, the same as it would cost a new company having the right to make and distribute gas in the City of New York to build a plant, disregarding the old plant entirely. And secondly, they might claim to be allowed—although I do not think under the cases they could be—the value of the capital that they have invested in their plant, and that would be ascertained by taking the original cost of these plants and adding to that the amount of capital that has been added in the way of ad-
22056 ditions since that time, and deducting therefrom the proper element of depreciation and allowing that value; while the evidence of this witness has been entirely directed to the reproducing today of a new plant similar to the old plant—was commercially or economically worth reproducing as he has testified, and without regard to the cost of producing gas in that plant. Therefore all his testimony and estimates are based upon something that in no way will enter into the final consideration of what is to be allowed this company. And I move that it be stricken out.

Mr. Burr: We make the same motion.

Mr. Mathewson: I do not agree with the Senator's law, but it is, it seems to me, plainly relevant.

The Master: Motion denied; exception to all parties to the motion.

Mr. Page: And further, I move to strike out the witness's testimony on the ground that it is immaterial and irrelevant, the testimony being admitted on the relevancy of the replacement value, that the replacement value of the plant is not the total replacement value of each particular 22058
building and apparatus, and to this result alone does the testimony go. It should be as to the replacement of a complete plant.

Mr. Burr: We join in that motion also.

The Master: The same ruling and exception."

The Master: That includes all the testimony given by him, does it?

Mr. Ransom: All—

The Master: And the page numbers you have given are the Circuit Court of Appeals record pages?

Mr. Ransom: Yes. Mr. Mayer was called on 22059
certain matters in rebuttal after the defendants had rested. He was put on as a witness for the complainant in rebuttal. I am not offering at this time, or proposing to read at this time the testimony given by Mr. Mayer on rebuttal.

The Master: You did not do that with reference to the testimony of Mr. Simpson either, did you?

Mr. Ransom: No.

The Master: This testimony will all be considered in as if it were read at length.

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Mr. O'Brien: For the purposes of the record, I would like to have it stated that Judge Ransom is omitting from the testimony of Mr. Mayer, pages 6564 to 6739.

Mr. Ransom: I am not proposing to read at this time those pages, where Mr. Mayer was called as a witness in rebuttal. I may have occasion to do so.

In respect to Mr. Simpson, who was called on certain matters in rebuttal at pages 5417 to 5603, and pages 5894 to 5898, at this time I am not proposing to read the testimony of Mr. Simpson

22061 when called as a witness in rebuttal following the close of the defendants' case upon the prior suit. I may read that if occasion shall arise, in due time.

Mr. O'Brien: We have an exception, your Honor?

The Master: Yes.

Mr. O'Brien: I would like to make a statement on the record at this time—

The Master: One minute. I have read the statement that counsel proposes to read into the record, and I will not permit counsel to read it or spread it on the record. There is no occasion

22062 for it at this time. There may be occasion for it when we go into the Teele cross-examination again tomorrow. If so, I will let you read it. There is nothing before us now that justifies or calls for the reading of that statement.

Mr. O'Brien: Your Honor, you mean the sequence is not here, is that all?

The Master: Why, I have not made up my mind whether I am going to let you spread it on the record at all or not. If I do I will try to give you the occasion for doing it tomorrow when we talk about Mr. Teele, because when Mr. Teele is

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on the stand again tomorrow under cross-examination, I shall repeat what I have said before, that I am not going to permit questions except those that are pertinent to the matter under inquiry, and to bring out some points, such as an alleged error in computation, or a wrong basis of calculation, or something else; and I shall repeat what I have said before, that it was the duty of the defendants, including the District Attorney and his counsel, to make a full and complete examination of the schedules and exhibits offered in evidence, to the end that time would be saved on cross-examination by asking a question directly 22064
to the point. If Mr. O'Brien insists that he has not had sufficient facilities or assistance in the nature of experts, I shall repeat what I said, that that is not the fault of the Master, but is the fault of the public authorities supporting the District Attorney.

Mr. O'Brien: I never made such a statement, I didn't say I didn't have sufficient help.

The Court: Yes, you did.

Mr. O'Brien: I never in the world made such a statement?

The Master: Wait until tomorrow, and if you want to spread a speech on the record that the 22065
city ought to be a party to this suit I may let you do it.

Mr. Clark: Your Honor, I have a request for information preparatory to the cross-examination of Mr. Teele.

The complainant is requested to furnish for the purposes of cross-examination with regard to Exhibit 366, the following information:

1. As to "Rental of Jointly Used Facilities": the properties considered under this title in each year, together with the rent paid to the complainant company.

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2. As to "Miscellaneous Rent Revenue"; the same information as requested for "Rental of Jointly Used Facilities."

3. As to "Taxes and Interest thereon"; an itemization of the taxes and the interest for each of the years showing the amount paid for each kind of taxes, as well as the amount accrued and not paid; also a list of the properties upon which taxes were charged to gas operations in each year and the basis of adjustments made of taxes not chargeable to particular properties such as gross earnings tax and Federal income tax between gas

22067 operations and non-gas operations.

The Master: With reference to what exhibit is that?

Mr. Clark: Exhibit 366.

The Master: That is the exhibit prepared by Mr. Teele as to which I told counsel to have their experts get in touch with Mr. Teele and his representatives.

Mr. Ransom: Mr. Frank and Major Clark spent some time with Mr. Teele's men on Saturday. I would suppose that they had had this information. It is information which Mr. Frank could as readily get out as Mr. Teele's men, pro-

22068 vided he is not willing to take Mr. Teele's statement.

Mr. Clark: It is not a question of getting the stuff out, if your Honor please. We feel that for the purposes of our cross-examination it is necessary to have this data on the record, so that when we put our experts on the stand to attack the figures here we can show which part of those totals they attack.

The Master: Your questions probably would be pertinent anyhow, Mr. Clark, and in line with my ruling. In other words, here is your proposition—

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Mr. O'Brien: He is not acquiescing in your ruling, your Honor.

The Master: You say, taking Mr. Teele's figures as to rental of jointly used facilities, that he has figured something in or out, that his figure is wrong.

Mr. Clark: It should appear in the record just what he is including in it, so that we can attack it.

The Master: That is what I meant, you have a point of attack, you have a point in mind?

Mr. Clark: Yes.

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The Master: You want to bring out the fact that he did or did not do something, that he did or did not put something in. My ruling does not go so far as to bar you from doing that. In fact my ruling is that when you have a question in your mind to get right to it, just as Colonel Hayward did in a series of questions, to the effect that on this matter of the rental of jointly used facilities Mr. Teele did or did not include certain items. It is quite proper for you to spread on the record that he did do certain things. But, if you were to say to Mr. Teele, "Now, what books did you look at to get that figure," and start fishing around for a week, I should rule it out. If

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I were to say to you, "What is your point about this," and you were to say, "We want to spread on the record the fact that he did or did not include certain items," I will let you do that.

Mr. O'Brien: I will have to go back under this ruling and ask to conduct my whole examination over again.

The Master: I will not let you. I tried for weeks to have you do it.

Mr. O'Brien: You are broadening it out.

The Master: Not at all.

Adjourned to Tuesday, November 25, 1919, at 9:30 A. M.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTOWN, ETC., *et al.* 22075

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 25, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newtown.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 22076
MR. O'BRIEN, of Counsel for defendant Swann.

Mr. Ransom: If the Court please, Major Clark yesterday afternoon just at the close of the session, asked for certain detailed information regarding Exhibit 366. Most of the detail for which Major Clark asked is in Mr. Teele's working papers, and a small part of it is not. We are 22077
having that detailed matter put in summarized or tabulated form, and will have it not later than Monday, and it has been physically impossible to get it together for today.

Mr. Clark: If your Honor please, I spoke to Mr. Teele about it and it seems to me that it would save time for all parties in the case if we had that all together.

The Master: I think so too. If it is going to take Mr. Teele until Monday to get it in shape, it would take two weeks to get it by cross-examina-

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tion. I will suspend Mr. Teele's cross-examination by Major Clark until you get what you want.

Mr. Clark: I suggest that the entire cross-examination of Mr. Teele would be shortened if we could have a summary analysis of each of the items on that schedule 366. I understand the items I asked for are the ones on which he has the most details, and there are two items of production and distribution that also differ from the books.

The Master: On what exhibit is that?

Mr. Ransom: Exhibit 366.

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Mr. Clark: The cost of production and the cost of distribution, and a great many adjustments from the books of those two classifications for other years.

Mr. Ransom: You don't want 366 on these prior years, which are made up, as I understand it, merely for your Honor's convenience in considering the books for those prior years? You don't want that made up in the same detail as 205 or 355? Now, Major Clark asked yesterday for the detail on miscellaneous rent revenues, joint facilities and taxes, those being the three items on which there were allocations of the sort which the witness had described in connection with Exhibits 205 and 355. Now, even those make an enormous quantity of detail. If those tabulations which are now being prepared are put in evidence by Major Clark, it will be the largest single exhibit in this case, and will in itself be nearly as much as all the other exhibits put together.

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Mr. Clark: The question that troubles me is just this, that we have in evidence the operating ledger for each year and nothing else. Mr. Teele has taken the operating ledger and in most of the

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classifications has just taken the footings, as I understand it, of the different acounts, and they appear on this tabulation for the three items that I asked for, and the cost of production and cost of distribution he has made a good many adjustments from the ledgers, to get which he had to go back to the journal and underlying papers.

The Master: You are entitled to have those adjustments shown on the record.

Mr. Clark: I think we should have them.

Mr. Ransom: Now, what that means, your Honor, is that you will have to make up a series of exhibits like 205, or more details, which I 22082
should be surprised if it could be done in a month.

The Master: Then I do not understand the situation. As I understand it, Mr. Teele instead of taking the footings from the ledger as to a particular item, has adjusted it in some form.

Mr. Ransom: He indicated the extent to which he adjusted it. He said there were some few items which had been transferred to the year in which they belonged.

Mr. Clark: It seems to me we are entitled to have the adjustments, and this would be the simplest way to get them in the record. Personally I have no thought that they will be questioned when 22083
they are once in the record, but I think the shortest way to get them in the record is to have them tabulated in some form.

The Master: I am not going into the useless form of spreading stuff on the record unless there is some point about it. Now, my thought is this, that if there is any point about it, if it makes any difference in the result and that difference is something that you want to base an argument on, I want it spread on the record so you will have it.

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Mr. Clark: Are we entitled to see how these figures are made up?

The Master: Yes, and that is why I told you to go to Mr. Teele's office and find out.

Mr. Ransom: Which they have not done.

Mr. Clark: Should not the record show how these figures are made up so that we can attack them?

The Master: If it is a point of attack, but you have just told me that you don't know whether you will attack it.

Mr. O'Brien: He did not mean that.

22085 The Master: Don't you tell me what it means.

Mr. Clark: We will attack the cost of production and cost of distribution, but in order to attack them and compare our figures, we have got to know how he got at his figures.

The Master: Why didn't you find out?

Mr. Ransom: He did.

Mr. Clark: It has got to appear on the record; otherwise how can we say Mr. Teele included this and did not include this.

The Master: If you have them, you can ask him very clearly, "You did not include certain items and you did include certain items." Isn't that so. I will let Mr. Chambers go on with his

22086 cross-examination and see what is left.

Mr. Ransom: Now, with respect to Exhibit 356, so far as these things which are to be gotten together in tabular form, I do not suppose—

The Master: I do not know whether it will be necessary to do it or not. Wait until Mr. Chambers gets through.

Mr. O'Brien: Your Honor, in reference to the colloquy which has just taken place, I want to say this so that I may not appear to be acquiescing in the statement made by any of the coun-

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sel. I have not, in behalf of the defendant Edward Swann, accepted either directly or tacitly or inferentially or in any way the ruling of your Honor embodied in the direction that we meet the employees of Mr. Teele and go over with him figures and tabulations that they may have made in making up some exhibit.

The Master: Why not? Why isn't that a privilege that I am according you or affording you?

Mr. O'Brien: The discussion this morning alone brings out the unfairness and injustice of that ruling, not that the Master intends to do anything but expedite the trial, but if— 22088

The Master: Well, I can't understand how it is unfair. I am giving you an opportunity to look at things that ordinarily you would not have a right to look at in advance of cross-examination.

Mr. O'Brien: The point is, your Honor, that it is extra-judicial to have an examination of Mr. Teele's men who made up the figures that he is using in court, to have an examination of men in the shape of a conversation which is not recorded, in the offices of the Consolidated Gas Company.

The Master: But you can record it here, if 22089 it is of any value.

Mr. O'Brien: No, you are shutting it off, when Major Clark gives you an idea that he wants to bring out, from an investigation he made, the fact that the witness has made computations—

The Master: Yes.

Mr. O'Brien: And has resorted to certain underlying data that is not in evidence, for the purpose of getting figures before the Court, he is not allowed to go ahead with that.

The Master: Well, we will see if he is not. Go ahead, Mr. Chambers.

22090 Arthur W. Teele, Cross.

ARTHUR W. TEELE, resumed the stand.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Mr. Teele, I show you schedule "Manufacturing Plant and Equipment withdrawn from service January 1, 1906, to December 31, 1918," down at the bottom it says "8228 copy." Now that is a schedule made up by you and your firm is it not?

A. That schedule was made up under my direction.

Mr. Chambers: I ask that that be marked for identification.

22091 Mr. Ransom: I ask to have it marked in evidence.

The Master: That, as I understand it, was the first 367 furnished to the other side?

Mr. Ransom: That was an exhibit covering book withdrawals.

The Master: What is the purpose of marking it for identification.

Mr. Ransom: We now offer it in evidence.

Mr. Chambers: I make the same objection we did to the original 367.

The Master: Yes.

Mr. Ransom: I don't care about having it one
22092 way or another, but if it is going to be marked at all and going to be gone into, it ought to be marked in evidence. It relates to a matter—

The Master: I won't either mark it in evidence or for identification at this time.

Mr. Chambers: Why? I am going to use it.

The Master: Yes, I will mark it for identification as a defendants' exhibit.

Mr. Chambers: Judge Ransom offers it, I take it, and you have not ruled on it.

The Master: I rule I won't take it because it was superseded by the paper marked 367.

Mr. Ransom: It was not superseded except that 367 relates to a different issue and bears on a certain different fact.

The Master: Isn't that what purported to be 367 in the first instance.

Mr. Ransom: No.

The Master: What does it purport to be?

Mr. Ransom: It is made up from a different point of view and covers different data.

The Master: Well, the paper that is marked 367 in evidence is endorsed "Consolidated Gas Manufacturing Plant and Equipment Withdrawn 22094
from Service January 1, 1906, to December 31, 1918, included in Court valuation, Part I, not included in Court valuation, Part II," and the paper that Mr. Chambers asks to be marked for identification is likewise endorsed "Consolidated Gas Company Manufacturing Plant and Equipment Withdrawn from Service January 1, 1906, to December 31, 1918, included in Court valuation Part I, not included in Court valuation Part II." I don't quite understand your statement, Judge Ransom, that this does not purport to be what 367 purports to be.

Mr. Ransom: It readily appears from an exam- 22095
ination of the schedules that one was a schedule as originally made up to show all the books withdrawals from manufacturing plants.

The Master: The witness will undoubtedly have something to say about it. You can mark it a defendants' exhibit for identification.

The paper was marked Defendants' Exhibit AA24 for identification.

Mr. Chambers: Now, Judge Ransom has just offered in evidence Exhibit AA24 for identification.

The Master: And I refuse to take it upon the grounds stated.

Mr. Chambers: I ask your Honor to allow his offer to remain to be ruled on later.

The Master: No, if you wanted it marked in evidence, I will take it, I will mark it as a defendants' exhibit.

Mr. Chambers: I don't know what is in it, that is all.

The Master: You can offer it for the purpose of showing what was handed you in the first
22097 instance?

Mr. Chambers: Well, he offers it.

The Master: Well, I won't take it on his offer. Go on and ask Mr. Teele what you want to ask him. I will hold these tax men for a while.

Mr. Chambers: I was going to say we are prepared to go ahead and finish our cross-examination.

The Master: Then go ahead.

Mr. Chambers: Well, if you suspend for fifteen minutes until Mr. Maltbie can go down and get this paper, then we will proceed.

The Master: Go ahead, go on. I am telling
22098 you now that about half-past ten or eleven o'clock, or at any rate, in time to let these men get away this morning I am going on with the Tax Department men.

Mr. Chambers: Well, I ask time for Mr. Maltbie to go down and get this paper and come back again.

The Master: I don't care what you want.

Mr. Chambers: Well, is that fair? I need Mr. Maltbie while examining this man and then if you put these tax men on I need Mr. Maltbie with the tax men.

Mr. Ransom: I gave notice yesterday, and you would have heard it if you had not been away.

Mr. Chambers: I stayed away because the Master directed me to go on with 367.

The Master: If you do not ask the question I will direct the witness to leave the stand.

Mr. Chambers: Well, I don't know where I am at here.

The Master: You are at 367. Go on with 367.

Mr. Chambers: That is what I want to do.

The Master: Mr. Maltbie thinks he needs pa- 22100
pers for the examination of that.

Mr. Chambers: Time just to go down and back and get them.

The Master: It is just real estate, isn't it?

Mr. Chambers: Yes.

The Master: Well, send for them and get them. I don't care how you get them.

Q. Does Exhibit 367 include all property withdrawn from service during that period?

A. During what period, Mr. Chambers?

The Master: January 1, 1906, to December 31, 1918. That is what the exhibit purports to cover, isn't it? 22101

Mr. Chambers: That is right.

The Witness: So far as I know it includes all the property withdrawn from service between January 1, 1906, and December 31, 1918.

Q. Does it include all property that ceased to be used during that period?

The Master: Objection sustained. The witness has already testified that it only includes property reported to have been withdrawn, and not property which is not formally withdrawn and the use of which is discontinued or suspended.

Mr. O'Brien: Exception, your Honor.

Mr. Chambers: Now, by sustaining an objection when none was made, you interrupt and spoil what I think is a very useful point.

The Master: But it is covered.

Mr. Chambers: No, we have not cross-examined him about this. When in this record has he said it covers property that has ceased to be used?

The Master: I can't point it out, but it would not be in my mind if it were not said. How would it get in my mind?

22103 Mr. Chambers: Well, I think it is erroneously in your mind.

The Master: Is it erroneously in my mind?

Q. Have you ever testified that it includes—

A. I don't think I have ever testified, because I don't know whether there is any property in use at December 31, 1918, that has not been retired. I have not made a physical examination of the property.

The Master: Somebody must have testified to it. Perhaps it was in Mr. Simpson's testimony.

Q. Does this Exhibit *367* include all property which ceased to be used between January 1, 1906, and December 31, 1918?

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A. I have not made a physical inspection of the property; I do not know.

Q. Do you know whether this Exhibit *367* includes all property which was put on the books in this period as having been withdrawn from service?

A. *367* does not include all the property which was credited on the account between January 1, 1906, and December 31, 1918.

The Master: As having been withdrawn?

The Witness: As having been withdrawn.

Q. Now, what properties were withdrawn as shown by the books which you have not included in Exhibit 367?

Mr. Ransom: I object to the question. It is immaterial, properties which were not claimed to be used and were not used in the gas business on December 31, 1905, were not within the scope of the prior case, and they are not within the scope of the present case. As a matter of fact, if Mr. Chambers wants a list of them, that list is fully set out in his own Exhibit AA24, for identification, which he had marked this morn- 22106
ing. He can put it in evidence if he wants to.

Mr. Chambers: All counsel wants is to cross-examine.

The Master: Does that statement call for a statement of the particular property, or of a class of property?

Mr. Chambers: Where located, what properties generally.

The Master: I will allow you to ask what class of property, first.

Q. Yes, what class of property?

A. Properties that were not in use in the gas business on January 1, 1906. 22107

Q. Now, I would like to know what they are?

By the Master:

Q. What do you mean by that, for instance, illustrate it by some piece of property?

A. I mean properties that were not included in the valuation made by Mr. Mayer.

Q. Give me an illustration of it.

A. The Eighteenth Street property, that had been taken by the city.

Mr. Ransom: Condemned by the city, but no award paid, so it was not in the prior suit and is not in this one.

Q. What other kind of property?

A. A holder at the Twenty-first Street station.

Mr. Chambers: I move to strike out the testimony that counsel gave.

The Master: I didn't pay any attention to it; I didn't hear what he said even.

The Witness: A holder at the Twenty-first Street station which had not been completed at December 31, 1906, and which had collapsed prior to that time, and which had not been withdrawn, because it was in litigation for damages, etc., and the amount of loss suffered by the company had not been determined January 1, 1906, and it was not included in the valuation made by Mayer.

The Master: What else? Does it make any difference in the result?

Mr. Chambers: Oh, yes.

The Master: How does it bear on it?

Mr. Chambers: This question?

The Master: Yes.

Mr. Chambers: There is a difference between that schedule that is marked for identification and the other, of substantially a couple of million dollars.

The Master: In other words, it adds to the invested capital by not figuring this, or reduces the invested capital—what does it do? Don't you know, Mr. Chambers?

Mr. Chambers: Oh, yes, I understand what it does. For instance, on this schedule his total is just the same—

The Master: In his first schedule he shows—

The Witness: If your Honor pleases, I think I can make a statement with regard to the difference in these two schedules that will perhaps clear the matter up in your mind.

The Master: No, I want to get something from counsel first. In the paper marked AA24 for identification, it shows court valuation withdrawn, $1,795,000 plus. In this paper he shows the court valuation withdrawn, $1,814,000.

Mr. Chambers: Now, you add up the other two columns.

The Master: Book valuation—on Exhibit 367 have I got to add together the three first columns in order to get the total?

Mr. Chambers: No, you add the two last ones— 22112

The Master: The last column stands by itself, "not included in court valuation."

Mr. Chambers: You add the identified and not identified together.

The Master: Yes. The book value—it would be about the same. The court valuation would seem to be less than $100,000—a little more on Exhibit 367 than on your Exhibit AA24 for identification.

Mr. Chambers: The difference between these two things is perfectly explicable. It is just an effort to make a mountain out of a mole hill.

The Master: I want counsel to tell me what 22113
the point is here, what effect it has, what difference it makes. This witness gives us Exhibit 367 which he says is correct, and in which he says the plant withdrawn from service, according to the court valuation, was $1,814,117.32, and the book value of items identified, $1,461,548.14; not identified, $155,953.12, and there was not included in court valuation $274,155.74. Now, Exhibit AA24 for identification is somewhat different.

Mr. Ransom: It shows property which was not in the Mayer appraisal.

The Master: It changes the figures of court valuation a little bit. What ultimate result has it in this case?

Mr. Chambers: If you will take this I can do it best by illustration. Look at page 16. You will find the 18th Street property there. Look on Exhibit *367* and that is not there, which he has just told us.

The Master: What difference does it make?

Mr. Chambers: The books show that that 18th Street property was withdrawn during this period.

22115 The Master: Is that for you or against you, to leave this in or out?

Mr. Ransom: It was not in the prior suit nor in the Mayer appraisal.

Mr. Chambers: It makes a good deal of difference whether you treat 18th Street as withdrawn during this period or not.

The Master: Do you know what items have been left out of *367* that were in AA24?

Mr. Chambers: We have not checked them all, we have some of them. That is one.

The Master: You ask leading questions and place on the record the difference.

22116 By Mr. Chambers:

Q. You have stated some of the properties. What other properties were omitted?

The Master: The question is not allowed.

Mr. Chambers: Exception.

The Master: I shall permit counsel to ask the witness whether it is not a fact that certain items appearing on AA24 are omitted from *367*?

Q. Is that so?

A. I did not get the question.

Q. Certain properties which are set forth on Ex-

hibit AA24 for identification are omitted on Exhibit 367?

A. Yes.

Q. Although those same properties are set up on the books as withdrawn during that period?

A. Those same properties are credited to the accounts after January 1, 1906.

Q. In other words, your Exhibit AA24 follows the books, while your Exhibit 367 does not?

A. Exhibit 367 follows the property that was appraised. It starts on a different theory entirely. 367 starts on the theory of the property that was valued 22118
by Mayer in 1905.

Q. Is it not a fact that your Exhibit 367 challenges the books, or does not follow the methods set up by the books.

Mr. Ransom: Objected to as incompetent. There is nothing challenging the books about it. We do not claim in this case, and did not claim in the other case, return on property that was not used in the gas business.

The Master: Objection overruled.

Mr. Ransom: Exception.

A. It certainly does not challenge the books. The information contained on 367 is taken from the books. 22119
The two schedules are prepared upon entirely different theories. The original schedule was prepared upon the theory of showing all of the property retired according to the account, and 367 was prepared on the theory of showing the property that was retired from the property which had been appraised, and which is the starting point of that schedule. I could not deduct something from an appraisal which was not originally included in the appraisal.

The Master: Then this endorsement on 367 is not accurate, Mr. Teele. It is not a statement

of the manufacturing plant and equipment withdrawn from service. It is a statement of manufacturing plant and equipment withdrawn from service included in the Mayer appraisal, and subsequently added.

The Witness: Yes.

Mr. Ransom: Look at the rest of the designation.

The Master: But this is not correct, manufacturing plant and equipment withdrawn from service.

22121 Mr. Ransom: But what follows—

The Master: I know what follows. I am going to make it perfectly clear on the record so as to stop any further cross-examination, that if this endorsement had been, "manufacturing plant and equipment withdrawn from service, of the plant appraised by Mayer as of November 1, 1905, and plant subsequently added as additional plant," then this paper would be right.

Mr. Ransom: Isn't that exactly what it says?

The Master: No, it is not.

Mr. Ransom: Included in court valuation, and not included in court valuation.

22122 The Master: No, it is not right. In AA24 for identification you have included all of the property withdrawn from service according to the books?

The Witness: Yes.

The Master: Whether it was in the Mayer appraisal or not?

The Witness: That is right.

Mr. Chambers: Just to illustrate it.

Q. Your Exhibit 367 does not include the 44th Street water gas sets condemned by the city in 1913, does it? Your 367, just to follow up what the Master

asked you, the 44th Steet water gas sets are not in 367, although it was condemned in 1913? That is the question?

The Master: I am going to change a ruling I made a little while ago; I am going to receive Exhibit AA24, now marked for identification, in evidence, as a complainant's exhibit.

Mr. Ransom: I think that is very satisfactory to us.

The Master: I will mark that.

Marked Complainant's Exhibit No. 376 in evidence. 22124

The Master: The question is not allowed on the ground that a comparison of Exhibit 376 with Exhibit 367 will show the variances.

Mr. Chambers: If your Honor will be just patient, I want to get this to show you one thing that is radically wrong.

Q. Take this Exhibit 376 and tell the Master if at the 44th Street plant the water gas sets which were condemned by the city in 1913, are set up there as withdrawn.

Mr. Ransom: Objected to. The paper speaks for itself.

The Master: Is it your contention that it is not set up in either one? 22125

Mr. Chambers: It is not set up in either one, showing that they have not covered all the property. I just picked out a few things to show you.

The Master: That is what I want.

Mr. Chambers: All this you will find, if I can get it out, will be brief and show you what is the matter, just what is wrong.

Mr. Ransom: Nothing is wrong.

The Master: Please do not interrupt, Judge Ransom.

Mr. Ransom: But counsel keeps commenting that something is wrong.

The Master: The way to explain matters brought out on cross-examination is by a redirect, not by comment on the record.

Mr. Ransom: The way to bring out things on cross is by questions and not by continuous comment.

A. The 44th Street property has not yet been withdrawn.

Q. Has it not ceased to be used, if you know from
22127 your examination of the records?

Mr. Ransom: Objected to. If your Honor is willing to take this witness's testimony on the use of property, I will withdraw the objection.

Q. It was condemned in 1913, by the city. Do you not know that it was to be used, from your examination of the books, Mr Teele?

A. I do not.

The Master: Hand back that exhibit, Mr. Teele.

Mr. Chambers: That is all, it is not in there; it is not in either one.

Mr. Ransom: It is not withdrawn.

22128 The Witness: It has not been withdrawn.

Mr. Chambers: We will see about that. The Master knows when a piece of property is condemned by the city it is no longer used by the Gas Company.

Q. I will ask you once more, and then we will pass from that subject, can you say after I have called your attention to this 44th Street plant, the water gas sets, that there is no other property that ceased to be used during this period, that is omitted from these two exhibits *367* and *376*?

Mr. Ransom: Objected to. The paper speaks for itself.

The Master: I will let the witness answer.

A. Not having made a physical inspection of the plants, I cannot say.

The Master: It may be property that is not in actual use, but not formally withdrawn?

The Witness: It may be.

Q. Do the total withdrawals in Exhibit 367 agree with the renewals and replacements in Exhibit 366.

The Master: Do you know what Exhibit 366 is? 22130

The Witness: Yes.

A. They do not.

Q. Does the items "Renewals and Replacements" in Exhibit 366 for each year, agree with the total withdrawals in all exhibits of withdrawals?

A. The "Renewals and Replacements" in Exhibit 366 shows the renewals and replacements withdrawn from the company's accounts, in the years as designated on that schedule. Exhibit 367 shows the renewal of the properties withdrawn from the court valuation. That is the difference between the two.

Q. They do not agree, then?

A. They are not intended to agree. 22131

Q. Are the figures in Exhibit 366 for renewals and replacements book, cost or book value?

A. They are, as shown by the books.

Q. Book cost?

A. Book cost or—yes, book cost or book loss.

Q. Take Exhibit 367 and just look at it. You have a heading "Book Value" on the first page, and you have "Book Value, Items Identified, Items not Identified." The words "book value"—should that not be, as you have just stated, book cost? Isn't that word "value" a misnomer?

Mr. Ransom: Objected to.

A. It may be to you, it is not to me.

Q. It is really book cost, is it not, what you mean there?

A. I should say record cost.

Q. Well, that is book cost. Why do you hesitate?

A. I did not hesitate a second.

Q. I mean about saying it is book cost?

A. I did not hesitate a second about it.

Q. Is it the book cost?

A. It is the record cost.

The Master: What is the difference?

22133 The Witness: It means the same thing. It depends on who uses it and what they intended to mean. It is equivalent.

Q. In your original schedule furnished the defendants, Exhibit 376, in the last column you have these words, on the first page: "Not included in court valuation." Then in the Exhibit 367, for that same column you have "Not Included in Court Valuation Expenditures Subsequent."

A. Yes.

Q. Will you please explain why you added those words "Expenditures Subsequent" and what that means?

22134 A. I added them to make it clear why they were not included in the court valuation.

Q. The first one was not clear, you thought?

A. It did not appear so.

Q. What do you mean by "Not Included in Court Valuation Expenditures Subsequent"?

A. The expenditure for the property retired after January 1st, 1906. It was retired after January 1st, 1906, and so of course it could not have been in the court valuation.

Q. You mean the money was spent on it and it was also retired after that date?

A. Yes, after that date.

Q. Have you got Exhibit 376 before you?

A. No. I have Exhibit 367 before me.

Q. But you have not the other, the original?

A. No.

Q. Haven't you that first schedule?

A. Well, go ahead and ask a question.

Q. Have you got a copy. Well, will you look at page 16 of Exhibit 367, plant withdrawn from service at 18th Street. Have you that, the first tank and holder on page 16?

A. Yes.

Q. You have that. That tank and holder with- 22135
drawn in 1910, you have it there, amounting to $384,756.36. In the other, Exhibit No. 367, you have not that at all, have you?

A. I have none of the items shown on page 16.

Q. Take that big item. Why didn't you include that in Exhibit 367?

Mr. Ransom: Objected to. It has been already answered.

The Master: I am going to allow it. Let us get done with these questions.

Mr. Ransom: We will never get done.

The Master: Well, he has only got a few more.

22137

Mr. Chambers: I have only got a few.

A. Why, because none of this property at 18th Street was valued by the Court.

Q. Do you know when it was withdrawn from service?

Mr. Ransom: I object to the question. What does he mean, withdrawn from service?

Mr. Chambers: I don't know.

Mr. Ransom: Do you mean retired on the books, or do you mean—

Mr. Chambers: He uses it. He says up at

the top, "Plant Withdrawn," and he has included it in his papers as withdrawn.

Q. When was it withdrawn, when you put it there, in 1910?

A. It was withdrawn in the accounts in the years designated on this schedule.

Q. To wit, 1910?

A. 1910, and so on—the balance of it as indicated.

Q. This other big item of $749,793.11 was withdrawn in 1913?

A. From the accounts.

22139 Q. And the rest of it on the dates stated on page 16 of that exhibit?

A. Yes.

Q. The reason why you did not put it in Exhibit 367 was that it was not included in the Court's valuation?

A. Right.

Q. Do you know when that property set forth on page 16 of Exhibit 376 ceased to be used?

A. I know that it was condemned by the city prior to the Mayer appraisal.

Q. All of it? You have some there for 1917.

Mr. Ransom: What do you mean, 1917?

22140 Mr. Chambers: It is there.

Mr. Ransom: Property sold to the New York State Terminal and Realty Company in 1917. There is nothing there about property condemned in 1917.

Mr. Chambers: I did not ask him about property condemned.

Mr. Ransom: Well, you were.

Mr. Chambers: You are mistaken. I am asking him if he knows when the property on sheet 16 of that exhibit was withdrawn from service.

Mr. Ransom: That is not what you asked. You asked him when it ceased to be used.

Mr. Chambers: Yes, that is what I am asking him, when that property ceased to be used, on that page.

A. No, I do not know when it ceased to be used.

Q. You do not know as to any of it?

A. No.

Q. Why did you set it up there in the first exhibit?

Mr. Ransom: Objected to.

The Master: The question is not allowed.

Mr. Ransom: It is fully covered. 22142

Q. Have you got Exhibit 185 handy?

A. Yes.

Q. Will you turn to pages 11 and 12 of Exhibit 185?

The Master: Put your question.

Q. You have included there on those pages additions to the 18th Street plant, all those items, and on page 12, although that property has been withdrawn. How do you explain that?

A. This property, expenditure for which is shown on pages 1 and 12, was not withdrawn.

Q. How were you able to determine that?

A. How did I determine that this property was not withdrawn? 22143

Q. Yes.

A. Because it represents expenditure made after January 1, 1906.

Q. On property which is not claimed as being used?

Mr. Ransom: I object to the question. The city took part of this property, the city did not take it all. Mr. Maltbie would tell him that if Mr. Chambers would ask.

Mr. Chambers: There is no claim at all on Exhibit 376 of this 18th Street. I am asking how

he can explain putting in these expenditures on a piece of property that they do not claim themselves to be used in the gas business.

Mr. Ransom: That is just a petty question to confuse the record. The city condemned the property, but did not take it all.

By the Master:

Q. Mr. Teele, will you please tell us why these items were in Exhibit 185?

A. Because it is expenditure that was capitalized, endorsed by the engineers as having been expended on
22145 property owned by the company and in use for the gas business subsequent to January 1, 1906.

Q. Is that the same property that you have marked "Withdrawn" somewhere?

A. No, it is not. The property which was in the original schedule, $1,900,000, was that portion of the 18th Street property which was condemned by the city and was not valued by Mr. Mayer. This expenditure of $6,205 shown on pages 11 and 12 was an expenditure made by the company after January 1, 1906, upon that portion of the 18th Street plant which remained.

Q. In other words, there are two 18th Street plants,
22146 practically?

A. The property was cut in two.

Q. We are referring practically to two different plants on 18th Street?

A. Two pieces of property.

By Mr. Chambers:

Q. Exhibit 178 has excluded entirely the 18th Street plant.

The Master: I understand the situation.

Q. Where did you get your information from that these expenditures were on part of the 18th Street plant?

A. From the endorsements on the vouchers and from the information furnished to me by the engineers.

Q. Mr. Aldrich?

A. Mr. Aldrich.

Q. And you relied on that, did you? You relied on what Mr. Aldrich told you?

A. I certainly did.

Q. Turn to Exhibit 185, pages 88 and 89, and I will not press the other point any further—the Inwood station. You have included certain expenditures there, haven't you? 22148

A. Which do you mean? You say pages 88 and 89, Inwood. Page 88 is Inwood.

Q. Take page 88.

A. I have included $1,212.57 of expenditures at the Inwood station.

Q. Although you knew that that station was not included in the property claimed as used and useful did you?

A. As I stated before, I have relied upon the information furnished by the engineers, upon the engineers' endorsements upon vouchers, and upon other data supporting the entries made.

Q. And that is the basis of your allowance of it, what Mr. Aldrich told you and what you found on the vouchers? 22149

A. The endorsements upon the vouchers themselves, together with additional information if required, furnished by Mr. Aldrich.

Q. What do these dates mean here on Exhibit 367, on the margin? So the Court will know, take page 3, this 1907, 1911, 1912, on the left-hand side. What are those dates?

A. They indicate the ledger in which the expenditure will be found.

Q. They do not indicate the year when the plant was withdrawn?

A. No, this is the—I beg your pardon, this is the year in which they were withdrawn, this schedule.

Q. Then, to illustrate, on page 3, 1907, 1911 and 1912 indicate what?

A. They indicate the ledger in which the item of withdrawal will be found.

Q. And the date when the plant was withdrawn?

The Master: I think I understand that, Mr. Chambers. The plant may have been disused
22151 several years before, but in this particular year it was entered on the books as withdrawn.

The Witness: Right.

Q. What do these other dates mean?

The Master: What other dates?

Mr. Chambers: Take page 8, for illustration

The Master: Page 8?

Mr. Chambers: Yes, page 8.

Mr. Ransom: That has all been explained.

A. What other dates do you mean?

Q. Under 1917 there you will see 1891, ledger folio 28, and 1892, ledger folio 28. What do those dates mean?

22152 A. They refer to the ledger in which will be found the record of the cost to the company of the property designated.

Q. Will you turn to page 24 of Exhibit 367. Take the first item there on that page; how do you know that that item is not included in the Court valuation—that item, new tank and holder, at $18,895.12?

A. First, because I could not find it in the Mayer valuation and, second, because—

Q. You mean you could not identify it?

A. I could not identify it as being there and, in

the second place, because it represented expenditure made by the company which was subsequently billed to the Standard Gas Light Company, and the expenditure is made subsequent to the appraisal.

Q. It is book subsequent to the appraisal?

A. It is expenditure subsequent to the appraisal.

Q. How did you know that?

A. It shows. I have traced the record of it. It shows in the ledger for 1906, folio 22. The $18,895.12 is part of a total shown in that ledger, of $21,993.74.

Q. Still it may have been in the Court valuation? 22154

A. It could not have been in the Court valuation, because the expenditure was made afterwards.

Q. The property might have been there in the other appraisal?

A. What do you mean by the property?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Take page 26. How do you know that the items, the cost of coke storage yard, the cost of dismantling generator house, were not in the Mayer appraisal?

A. Because the expenditure is subsequent. 22155

Q. There is nothing to indicate there that the expenditures were subsequent, is there, on that page?

A. Yes, I think there is.

Q. Where?

A. The book and folio referred to against the expenditure is all subsequent to December 31st, 1905.

Q. Take the first one, where is there anything there? It says "1908, coke storage yard, estimate by company's engineer." Where is there anything there?

A. There is not anything there for that particular

item of $677.66; I had to rely upon the information given to me by the company's engineer.

Q. Mr. Aldrich?

A. Yes.

Q. He told you, did he, something about it?

A. That the expenditure was made subsequent to the appraisal.

The Master: The same answer applies to "Temporary stable $750, stable building $4,500, and stable contents $459," the last item is that right?

The Witness: That is right.

Q. Now, turn back to page 3, how were you able to identify the various items on this page 3 so as to know that they related to the same thing that was mentioned by Mayer in his appraisal?

A. I relied upon the information furnished to me by the company's engineer that the expenditure had been made prior to January 1, 1906, that the property was upon the premises appraised by Mayer.

Q. Well, how did you identify that? Take the "Well and Boiler House"?

A. It is not identified. It is in the—I beg your pardon. Which items are you referring to?

The Master: The first item on page 3. You have that in the column "Items Identified."

Mr. Ransom: You have gone over that before.

The Master: Yes, I think so, but I am going to let him ask this since I see he only has one or two questions.

The Witness: I referred to the entries made in connection with the withdrawal of property, and I referred to the record of the Mayer appraisal of the 14th Street property. And the de-

scription in the entries retiring the property enabled me to identify the property set out in the appraisal of Mayer.

Q. Page 7, down at the bottom, "Building A situated on Southeast Corner of First Avenue and 22nd Street," marked "Demolished," the court value you have at $56,320?

A. Yes.

Q. You identified that same property at $6,797.08, according to your exhibit, is that right?

A. I am just looking at it, because I have a notation in regard to it. It is my present recollection that 22160
I did identify that building, that this is one of the properties where I had to rely to a considerable extent upon the information furnished me by the engineers.

Q. In other words you identified the property that the Court valuation fixed at $56,320, you were able to identify it so that you fixed it at $6,797.08. There was not any part of it that you could not identify?

A. That appeared to be the situation.

Q. Now, turn to—

A. (Interrupting.) The Court had valued it at that as against the company's record value.

Q. Now, keep that page 7 in mind and turn to page 22161
2, where you have found that the relation of the Court valuation to the book cost is 98.467 per cent?

A. Yes.

Q. Now, this does not quite fit that situation, does it?

The Master: Objection sustained. Of course this one particular item does not. I think that is the most stupid question I have heard asked in this case.

Mr. Chambers: Do you think that is a good identification, $56,000 at $6,000?

The Master: Next question.

Q. Well, you did fix the percentage?

A. You don't dispute that is the company's record of the cost.

Q. Well, you have made the identification.

The Master: Next question, Mr. Chambers.

Mr. Chambers: I want to ask that.

Q. The company did not make the identification?

The Master: He has already answered that. He has taken a position in your favor here. He says although this property was valued by Mayer
22163 in this other case at $56,000, he was able to identify it as property that cost them $6,700.

Mr. Chambers: Well, I don't think he was. It cannot be the same property. Ridiculous that Mayer could put it at $56,000 and he put it at $6,000. He can't identify them. You miss my point.

Q. Now, just turn to the next page, page 8, you will find under 1913 an item "Relief Holders 1 and 2, dismantled, estimate by Company's engineers, $70,463.78." Why couldn't you identify that? You made such a good identification here on the other—
22164 a little item of $70,000?

A. Because they are included in the appraisal with other property. They were not separately appraised.

Q. Then it ought to be in the court valuation claimed if they are appraised with other property?

The Master: Why, no, if he could not segregate it he cannot—

The Witness (interrupting): I do not see why.

Q. They are all in the Court's valuation?

The Master: But if a plant is appraised at $5,000,000 including this relief holder 1 and

2 and there is nothing in that figure showing how much was taken for relief holders 1 and 2, how could he say what the court valuation was for relief holders 1 and 2?

Mr. Chambers: I do not think he can say as to any of them.

The Master: That may be.

Q. What other property was included with that item of $70,463.78 that you found?

A. I cannot tell you at the present time.

Q. Where is it?

A. These two columns appearing in this schedule 22166
of items identified and items not identified are put in the schedule for the purpose of showing the items that we could identify and items that we could not identify.

The Master: Well, you may be wrong about some of those items? Your identification may not be accurate as to some of those items? Isn't that so? Would you want to say under oath that you were absolutely accurate without question as to every single item you identified?

The Witness: There is no doubt in my mind about it.

The Master: That is as far as you will go, 22167
though?

The Witness: No. We are all human, of course.

Q. Now, you said that it did appear in the court's valuation of "Other Property"?

Mr. Ransom: Objected to as having been fully covered.

A. I did not say it.

Q. I say you said that item of $70,463.78, the reason you could not identify it was because it was included in other property that was valued by the Court?

Mr. Ransom: Objected to, as already asked and answered.

Q. It is included on page 1, isn't it, in the $155,953.12?

The Master: That is property not identified?

Mr. Chambers: Yes.

The Master: Yes, certainly.

Q. Is it?

A. It is included in what?

Q. In the $155,953.12 items not identified?

A. Surely.

22169 Q. And then you added that $155,953.12 to the Court's valuation as you have stated it on page 1?

Mr. Ransom: I object to the question.

Q. Didn't you?

Mr. Ransom: Perfectly absurd.

A. Added it to the Court's valuation?

Q. Yes.

The Master: I wish you would not interrupt that way, Judge Ransom. Let the witness answer questions. If you have an objection, make it.

Q. It is in addition to the column marked "Court

22170 Valuation," isn't it?

A. The $155,953.12 is raised to a value of $176,952.23 and included in the first column showing the total of the Court valuation claimed of $1,814,117.32.

Q. So that the $70,000 finally finds its way into the column "Court Value" in addition to what you have stated there?

A. Why, of course. It should find its way there.

Q. Now, taking page 6 for illustration, and there are a lot of pages the same way, all through that page you have used the words "Estimate by Company's Engineer"—"Estimate by Company's Engineer"—

"Estimate by Company's Engineer." What do you mean by that?

Mr. Ransom: Objected to as having been fully explained.

The Master: Objection sustained. He has told us all about that.

Mr. Chambers: Exception.

Q. On page 2 of Exhibit 367, you have a footnote in which you say, "Taken from the records of the proceeding of the joint investigating committee, appointed March 16, 1905, Rowland Appraisal." Is that so? What items does that relate to, where you 22172
took the Rowland Appraisal?

A. What the note says.

Q. All of the sheets that follow 2, you used the Rowland Appraisal before the joint legislative committee?

Mr. Ransom: I object to it. The paper speaks for itself. It shows such items as the Rowland Appraisal has given.

The Master: Objection sustained.

Q. Where did you get that Rowland appraisal from?

Mr. Ransom: Objected to.

Q. Where did you take your— 22173

Mr. Ransom (interrupting): The paper shows on its face, and note two, where it comes from.

The Master: The question was not finished. What is it you want to ask?

Q. I want to know where he got his Rowland appraisal from.

The Master: You mean his copy of the Rowland appraisal.

Mr. Chambers: Yes, whether he took it out of the printed record, or where he got it from.

A. From the printed copy that was furnished to me by the gas company.

Q. You did not know anything about its being authentic, did you?

A. I did not investigate its authenticity due to the fact it was a printed copy.

Q. Was it signed?

A. And what it purported to be on its face.

Q. It was not signed, was it, by Rowland, or sworn to by Rowland?

A. It was a printed record.

Q. On page 4 of this same Exhibit 367, take the item, Boiler and Furniture Dismantled, Items Iden-
22175 tified, $2,000?

A. It does not read that.

The Master: Boiler and fixtures is on my page.

Mr. Chambers: Does not read what.

The Master: Boiler and fixtures dismantled.

The Witness: Boiler and fixtures.

Mr. Chambers: Yes, pardon me. Boiler and fixtures dismantled, $2,000, identified.

Q. Now, did you examine the operating journal as to this item?

The Master: Objection sustained.

Q. Do you recall, have you any notes that would
22176 show you what the operating journal shows?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Did you examine the journal, and did you find that it had this entry in regard to that, "For the original cost as shown by the report of the Rowland appraisal, page 2774 of a boiler and fixtures formerly located at the Fourteenth Street station, which was dismantled and scrapped a number of years ago, not heretofore reported to the Accounting Department as per report from the engineer of construction on file Dec. 27, 1916." Did you uncover that entry?

A. If you are quoting from the entry, I have seen it.

Q. That is correct, that entry?

The Master: And it would be on that entry that you made this statement?

The Witness: Certainly.

Mr. Ransom: If that is the entry.

The Master: Well, that is what is useful here. That points out what their claim is with reference to this item. That illustrates again that I am right in my ruling.

Q. So that note indicates that it was withdrawn 22178
before 1916?

Mr. Ransom: Objected to.

A. Before 1916?

Q. Yes.

The Master: Yes, certainly.

Mr. Ransom: The book speaks for itself.

The Master: Yes.

Mr. Ransom: Just simply playing on words, and I object and if I am overruled, I except. Counsel is merely playing on words all the morning.

Q. Now, on page 5 you have an item 1914, portion of plant dismantled or withdrawn durong 1914, estimate by company's engineer $22,172.19 not iden- 22179
tified." Why couldn't you identify that?

A. The record was not sufficiently clear for me to identify it.

Q. Is it included in the court valuation of $248,233?

A. I was unable to identify it.

Q. So you don't know whether it is included in the court valuation or not?

A. Yes, I do know it was included in the court's valuation.

Q. Was it included?

A. It was included in the court valuation, but we

could not identify the items. Otherwise, it would not be in the column of items not identified.

Q. Now, take on that same page 5, 1916, "Plant and property sold to Merchants Refrigerating Company, the New York Edison Company estimated value by company's engineer." Now, does that relate to the land in any way, that item?

A. It does not say so. It says, "Plant."

Q. Well, where is the credit on the land?

A. Real estate.

Q. Where did you put that credit on the land?

22181 A. In the real estate schedule. It is not included here. This is plant. It has nothing to do with real estate whatever.

Q. Well, the land you put in the real estate schedule?

The Master: Objection sustained.

Q. What did you do with the amount that was realized over and above the book cost of the land?

Mr. Ransom: Objected to as not within the scope of the examination as to this schedule.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, the "Tank yard wall on property sold to 22182 the New York State Terminal and Realty Company." What did you do with the difference realized upon the sale of that land over and above the book cost of the land?

Mr. Ransom: Objected to, nothing to do with this schedule.

The Master: Objection sustained.

Q. Page 7, the item, "1910, tank yard boilers 11 and 12, dismantled, record page 1487, $2,440; Rowland, page 2796, item 4, $9,000." I ask you if you examined the journal entry which is as follows in regard to this:

"Book value of boilers 11 and 12 situated in boiler room of work yard between 21st and 22nd Streets and Avenue A and First Avenue, built in 1879 by Continental Iron Works, dismantled in 1919, as per detailed statement in files. Treament"—

Mr. Ransom: Did you read all the entry?

Mr. Chambers: I think I did.

Mr. Ransom: Do you state that you did?

Mr. Chambers: Oh, I don't have to answer you. I am not under cross-examination here, and don't propose to be.

Mr. Ransom: I object to this question. 22184

The Master: Objection overruled.

Mr. Ransom: Exception.

Q. Is that journal entry correct that I have read, so far as I read it?

A. I do not now recall. If you are quoting the journal entry which places $9,000 to the credit of the plant account 21st Street station for the withdrawal of this item, then I have seen it.

Q. It should be a credit to construction account, shouldn't it, and not a withdrawal?

Mr. Ransom: Objected to. Counsel states that he has based that on a journal entry of which he read a part. 22185

Mr. Chambers: Counsel makes no such statement. Judge, if you will confine yourself to the fact, and get down off the mountain top here, and not make these statements that haven't any basis—I didn't say I didn't read the entire journal entry.

Mr. Ransom: You said so far as you had read it.

Mr. Chambers: That is leaving it so if there is some more there I do not want to be misstating. Now, I am not under cross-examina-

tion and you have no right to cross-examine me.

Mr. Ransom: I am only making an objection.

Mr. Chambers: You have no right to make an untrue statement. I read all the quotation I had from the record that I know of. Can you answer the last question?

The Witness: Will you kindly repeat the quotation, Mr Chambers?

Q. Yes, I will read it slowly: "Book value, boilers 11 and 12, situated in boiler room of work yard between 21st and 22nd Streets, and Avenue A and
22187 First Avenues, built in 1879 by Continental Iron Works, dismantled in 1910 as per detailed statement in file."

A. Yes, that is right.

Q. Wasn't it treated on the books as a credit instead of a withdrawal?

A. What do you mean?

Q. Credit to construction account?

A. All withdrawals are credits.

Q. To construction account?

A. All withdrawals are credits. I don't understand the meaning of your question.

Q. Wasn't it treated in the ledger as a credit to
22188 the construction at the 21st Street station?

A. All withdrawals are credits to the construction account, the account to which they refer.

Q. On the next item right here on that same page, "Armington & Simms engine"—wasn't that a credit to construction account and not a withdrawal?

Mr. Ransom: I object to that.

The Master: Objection overruled.

Mr Ransom: Exception.

A. I will repeat my answer, that all withdrawals are credits.

Q. All withdrawals are credited to construction?

A. Certainly.

Q. All withdrawals are credited to construction accounts?

A. Yes.

Q. That is so?

A. Plant construction accounts.

Q. Page 9, take the item, "1916—McKenzie Exhausters 2 and 3 dismantled, $3,476; identified, $7,000." I read the journal entry: "For the original cost of McKenzie Exhauster No. 2 dismantled during 1914 and sold as scrap during October, 1916, as per report from the engineer of construction on file." Did you have that entry, that journal entry in 22190
mind when you put this down as being withdrawn in 1916?

A. If you have quoted from the journal entry which credits the plant accounts with this particular item I have seen the entry.

Q. It should be withdrawn in 1914 then, according to this paper, instead of 1916?

Mr. Ransom: I object to that.

The Master: Objection sustained.

Q. I read the rest of the same item, same journal entry: "For the original cost of McKenzie Exhauster No. 3 at the 42nd Street station dismantled during the year 1905 and sold as scrap during 1916 as per 22191
report from the engineer of construction on file." Did you see that entry in the journal in regard to that?

A. If you have quoted the journal entry which credits the account with this particular item I have seen it.

By the Master:

Q. The point of it is that the journal entry shows that this was dismantled away back in 1905. Would that make any difference in your figures here?

A. No.

Q. The fact that it was entered as a withdrawal in the year 1916 on this report would justify you, as you say, in this figure here in your schedule as a withdrawal in 1916.

A. Does that say 1905?

Q. Yes, it was dismantled in 1905 it says.

A. I do not now recall why it should be shown here if the entry states that it was dismantled in 1905, unless it was included in the valuation made of the property at that place.

Q. It says record page 1573 in your schedule, which
22193 would indicate that Mayer appraised it, would it not?

A. That is the reason I am making the answer that I am, your Honor. It would appear from what Mr. Chambers has read that if it was dismantled prior to January 1, 1906, it was not included in the Court valuation, but without referring to the original data on the matter I could not say as this time.

By Mr. Chambers:

Q. Do I correctly represent you when I say that you didn't care really, when you got up this Exhibit 376, and this other exhibit, when the property was actually withdrawn, as a matter of fact?

A. I certainly did care.

22194 Mr. Ransom: I object to this. It is purely playing on words.

The Master: You use the word "withdrawn" when the witness uses the word "disused."

Q. You didn't care when it was disused by the company in making up these two exhibits, did you?

A. If the record entry withdrawing any part of this plant from the account was made subsequent to January 1, 1906, and the records to which I referred indicated that the property had been retired and was not valued in the appraisal prior to January 1, 1906, I intended that it should not be included

here. Now, if there is such a record I will not admit that it is an error until I fully investigate it.

Q. Well, it shows right on the face of your exhibit 1905?

A. No, it does not. That is when the expenditure was made, not the withdrawal.

Mr. Ransom: 1916 was when the withdrawal was made.

The Witness: The withdrawal was made in 1916. Let me see the journal entry that you are referring to?

The Master (reading): "For the original 22196
cost of McKenzie Exhauster No. 3 at the 42nd Street station dismantled during the year 1905 and sold as scrap during 1916, as per report from the engineer of construction on file."

The Witness: I am not satisfied that that is a correct quotation or the whole of the quotation from the entry.

Mr. Chambers: I think it would be better to send and get it.

The Master: I do not think it is important enough.

Mr. Chambers: I am only picking out certain ones so as not to prolong this. Do you figure 22197
that I am bringing out here all the errors?

The Master: No.

Mr. Chambers: They are only illustrative.

The Witness: They are every one your men could find after checking for months.

Mr. Chambers: Mr. Teele, I didn't ask you that, and I move to strike it out, and it is not correct.

The Master: I will follow my usual rule and not strike it out.

Mr. Chambers: He volunteers here. How does he know? It was not a responsive answer.

22198 Arthur W. Teele, Cross.

The Master: All right, strike it out.

Mr. Ransom: I object to striking it out.

Q. Now, the next item, "1917, property sold to Consolidated Telegraph and Electric Subway Company"—where have you put the land?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Where did you place the difference between the book cost of the land and what was realized for it, in what account?

Mr. Ransom: Objected to.

22199 The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, page 21 of Exhibit 367, have you that?

A. Yes.

Q. I read the journal entry on page 21 of Exhibit 367: "For the original cost of sundry plant and apparatus which was located at Avenue A, First Avenue, 62nd and 63rd Streets, dismantled during the years 1905-1906 and 1907. The land on which said plant and apparatus was located was sold to the Standard Gas Light Company in 1905. Apparatus has been dismantled and sold for scrap.

"The original schedule of November, 1884, shows
22200 the book value of plant and apparatus demolished at the aforesaid location, viz:

Two gas holder tanks of 94 feet diameter and 26 feet net depth, built of brick with concrete bottoms at $40,000 each	$ 80,000
Two telescopic gas holders, 92 feet 6 inches diameter of outside sections, 91 feet diameter of inner sections, 28 feet height of each lift. Holders have cast iron columns 24 inch inlet and 20 inch outlet pipe, capacity each 325,000 cubic feet	56,000

Valve house built between the two holders, brick cellar, frame upper part, slate roof, house is octagon, 17 feet long, 15 feet wide		2,000
It contains three 30-inch branches, two 30-inch valves, with hand wheels, two 24-inch valves, two 20-inch valves		1,500
Total		$139,500
Erected since consolidation:		
Brick valve and boiler house	$11,449.53	
Built in 1889-1890	4,246.10	15,695.63
Total		$155,195.63"

22202

The Master: Did you see that journal entry?

The Witness: I suppose so if it is in the book.

The Master: State why you omitted these items from 367?

The Witness: It has nothing to do whatever with it.

The Master: These items to which this journal entry refer, are not on 367.

The Witness: They are not on 367, because the property there was not included in the valuation made by Mayer.

22203

Mr. Ransom: Herman J. Levy, Deputy Tax Commissioner, who testified on September 5, 1919, and whose testimony was at that time by direction of the Master deferred, is now produced for cross-examination.

The Master: Mr. Levy is called for cross-examination.

HERMAN J. LEVY recalled.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Have you got your maps here, Mr. Levy?

A. Yes, sir.

Q. The official maps?

A. Yes, sir.

Q. The first one testified to, the first lot and block, was, I think, Block 1642, Lot 33.

The Master: It is Lot 32 in the record.

A. The record would show best which I testified

22205 to.

The Master: It is now shown on the 1919 map as Lot 33. It was formerly Lot 32, the northwest corner of Third Avenue and 114th Street.

Q. Have you that on your official map? Will your look at this Sheet 14 of Exhibit 178 and see whether your dimensions are the same as that (handing to witness)?

A. Yes, sir.

Q. Just the same?

A. Yes, sir.

Q. You placed a valuation of $48,000, I think you said, on that whole plot, did you?

22206 A. Yes, $48,000.

Q. Is the whole portion shown in pink on this exhibit now Lot 33?

A. Yes, sir.

Q. The whole thing is Lot 33 now?

A. Yes, sir.

Q. It used to be Lot 32 and Lot 33?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. You placed a valuation of $48,000 on that whole plot?

A. That is right.

Q. Was that the full valuation in your judgment?
A. The full valuation of the land?
Q. Yes.
A. Yes, sir.
Q. Without improvements?
A. Yes, sir.
Q. That is, in your opinion that was the fair and reasonable valuation of that land? A. That is right.
Q. Full valuation?
A. We assess full valuation.
Q. How did you value it, Mr. Levy? How did you go at it?
22208
A. A corner, 25 feet, with a value of $16,000.
Q. That is a little more than 25 feet?
A. 25 feet and—
Q. (Interposing.) 2 3/4 inches?
A. Yes. Well, we made them a present of that. We are very liberal at times in assessing property. I valued that corner at $24,000 for the Third Avenue corner, the 114th Street 50 feet was valued at $20,000, and there was ten per cent plottage on them of $4,000, making $48,000.
Q. What year was this for?
A. For the 1919 tax.
Q. Did you ever assess it in other years?
22209
A. No, sir.
Q. That was your first attempt at assessing that?
A. That particular plot, yes.
Q. Block 1670 would be the next one.

The Master: Read the dimensions.

Mr. Chambers: Yes, read your dimensions off.

A. On First Avenue 201 feet 10 inches, 650 feet on 98th Street.
Q. This is Block 1670, Lot 1. On First Avenue there is what?

22210 Herman J. Levy, Cross.

A. 201 feet 10 inches; Second Avenue, 201 feet 10 inches; 98th Street, 650 feet; 99th Street, 650 feet.

Q. Your valuation on that, if I recorded you right, is $630,000 without the buildings?

A. Yes, sir.

Q. That is without improvements. Was that the full value in your judgment of that property?

A. Yes, sir.

Q. How did you go to work to assess it?

A. The Second Avenue property, 201 feet 10
22211 inches, was assessed at $480 a front foot, a value of $97,000; with two corners, we figured on fifty per cent additional, or $12,000. On First Avenue there were 201 feet 10 inches at $480 a foot making $97,000. The two corners were figured at fifty per cent, making $12,000 additional. On 98th Street there was 450 feet, figured at $320 a front foot, or $144,000. On 99th Street there was 450 feet at $320 a front foot, making $144,000. The total is $506,000, with plottage added of $124,000, making a total of $630,000.

Q. That was for the same tax as the other, the last one?

22212 A. Yes, sir.

Q. Have you assessed this before, in any other year?

A. Yes, I assessed that for 1912, 1913 and 1914.

Q. You do not remember what the assessments were?

A. No, sir.

Q. The assessments in those years?

A. No, sir.

Q. Block 1692, Lot 1. Give me your dimensions for that, will you?

A. Block 1692?

Q. Block 1692, Lot 1. Read them off, will you?

A. First Avenue, 210 feet 10 inches.

The Master: 201 feet 10 inches, is it not?

The Witness: 201 feet 10 inches. 98th Street, 270 feet, 27/8 inches.

Q. 270 feet 2 7/8 inches?

A. Yes, 27/8.

Q. That does not agree.

The Master: It is pretty close.

A. 99th Street is 270 feet 6 7/8 inches.

Q. There is a difference.

The Master: The difference is very small. It 22214
is infinitesimal.

Q. The marginal street?

A. 224 feet 4 5/8 inches.

Q. That is on a slanting line, is it?

A. Yes, sir.

Q. How did you assess it?

A. First Avenue has 202 feet at $400 a front foot, which is $80,800. The two corners are figured at 50 per cent additional, or $10,000. On 98th Street there is 170 feet at $240 or $40,800; on 99th Street, 170 feet at $240, or $40,800. There was 100 by 200 extra at 24,200, making $196,600. With frontage of 25 per cent it makes $245,000.

22215

Q. Did you assess it in your judgment at the full value?

A. Yes, sir.

Q. Block 1682, give me the dimensions of that.

The Master: There are two lots there, evidently.

A. Lot 11 and Lot 8.

Q. Yes.

A. Lot 8 is 73 feet 5 inches by 80 feet 10 inches.

Q. What street is that?

A. On 110th Street.

Q. How much?

Q. 83 feet 5 inches—73 feet 5 inches on 110th Street, and on the west line 80 feet 10 inches. It is a triangular lot.

Q. What is the hypothenuse?

A. We do not figure it that way. We have not got it.

Q. It is a little triangle?

A. Yes, sir.

Q. You have given me the two sides of the triangle?

A. Yes, sir.

22217 Q. But you cannot give me the other?

A. No, sir.

Q. Is that the way yours looks (indicating exhibit)?

A. About like that, yes.

Q. How much did you assess that for, that Lot 8?

A. We figure it as 1.86 lots $10,000.

Q. Was that the full valuation.

A. Yes, sir.

Q. What frontage did you give it on the street?

A. 73 feet 5 inches frontage.

Q. How much per front foot, or did you figure it that way?

22218 A. I did not figure it by the front foot.

Q. You just took it as a plot?

A. Where we have not a square as a rule we figure the value that way.

Q. Lot 11. What was your dimension on that?

A. 401 feet 7 inches on 110th Street and 475 feet on 111th Street.

Q. And 201 feet 10 inches on First Avenue?

A. 201 feet 10 inches on First Avenue.

Q. What is it on the westerly side there?

A. I should say it is about 121 feet.

Q. Approximately, you got that last?

The Master: He is deducting the depth of Lot 8 from 201 feet 10 inches.

A. The lot figures here 121.

Q. You assessed that at how much?

A. $445,000.

The Master: $455,000, is it not?

The Witness: $445,000.

Q. Was that a full valuation?

A. Yes, sir.

Q. How did you arrive at that?

A. On First Avenue, 201 feet 10 inches, $480 a front foot, or $97,000; corner on 110th Street, figured at 70 per cent, or $8,500 additional; 111th Street, 50 per cent, $6,000 additional; 111th Street 375 feet at $320 a front foot, or $120,000; 110th Street, 301 feet at $360 a front foot or $108,500. Then there is a gore additional there, which is the biggest part of the rear end of that Lot 8, figured at $16,500, making $356,500, and with plottage making $445,000. 22220

Q. Block 1704, Lot 5. What are your dimensions of that as you assessed it?

A. Block 1704, Lot 5, on 110th Street 506 feet, on 111th Street 506 feet; on the avenue 201 feet 10 inches. 22221

Q. What was it on 110th Street?

A. 506 feet.

Q. No.

A. 110th Street and 111th Street are the same.

The Master: 506 feet.

Q. You placed an assessment on that, according to my notes, of $355,000; is that right?

A. $335,000; yes, sir.

Q. Was that in your judgment the full value of the property?

A. Yes, sir.

Q. How did you arrive at that assessment?

A. On 110th Street, 406 feet at $240 a front foot, or $97,440; on 111th Street, 406 feet at $320 or $129,920; Pleasant Avenue, 202 feet at $240, $48,480. The two corners added 60 per cent, or $7,200 additional. With plottage it makes $355,000.

Q. Block 1712, Lot 2, will you find that, Mr. Levy?

A. Yes.

Q. Some of that is under water, isn't it, or doesn't your map show that, or is the water to the east of it?

A. The water is east and west of it.

22223 Q. What?

A. The water is east and west of it, it is a filled in pier.

Q. What are your dimensions?

A. 105 feet on—there is land under water under the pier, you know.

Q. 105 feet there?

A. On Pleasant Avenue.

Q. Only 105 feet on Pleasant Avenue?

A. That is all we show.

Q. Yes. How much on 111th Street?

A. About—it does not show the exact dimensions on 111th Street.

22224 Q. How much on the water, facing the water?

A. 103 feet. The pier projects slightly beyond the high water mark here.

The Master: Has there been a rearrangement of that map in 1919?

The Witness: Yes, sir.

Q. State that again, the pier does what?

A. Projects out beyond the bulkhead line.

Q. Did you assess that portion out beyond the bulkhead?

A. I assessed it as 105 feet front and approximately 60 feet on one side about 77 feet on the other side.

Q. Who owns the strip to the south of the pier you assessed, bounded by Pleasant Avenue and 110th Street and the water on the north by—

A. We have no means of knowing who owns the property. We do not assess property by the owner. Just by the physical condition.

The Master: You haven't a Lot 2 like that, have you (exhibiting map)?

The Witness: Apparently not.

By the Master:

Q. Mr. Levy, your Lot 2 does not conform to Lot 2 shown on Exhibit 178, does it? 22226

A. No, sir.

Q. Does your Lot 2 run to the south side of 111th Street?

A. No, sir; not according to our maps.

Q. Well, Lot 2 apparently lies on Pleasant Avenue south of 111th Street and north of 110th Street?

A. Yes, sir.

Q. There is a piece between your Lot 2 and 110th Street that goes between your Lot 2 and 111th Street?

A. Yes, sir.

Q. And apparently your Lot 2 was wider at its south end than this Lot 2 would indicate on this Exhibit 178. You give it sixty odd feet at the south 22227 end of this, don't you?

A. That is a lead pencil figure which we have in here, which, of course, is not authentic.

By Mr. Chambers:

Q. Is this little plot here that Judge Gilbert asked you about south of 111th Street, to the north of this plot you have assessed, is that assessed to anybody there, or how have you got it?

A. The City of New York seems to be the owner of that.

Q. Now, the little piece that he asked you about to

the south of this lot that you assessed to the City of New York, I mean, how have you got that designated?

A. We haven't even got a lot number on that.

Mr. Ransom: Water.

Q. Water, is it?

A. It is water.

Q. It is not assessed, apparently, then, to anybody? It is not assessed, is it?

A. Well, it is assessed under Lot 6 with the adjoining piece. I see that it all practically goes into
22229 that for the City of New York.

The Master: It is an entirely different plot altogether?

The Witness: It is not assessed because it is exempt, it is city-owned property.

The Master: It is. This witness's appraisal on his Lot 2 will not help us at all to fix the value on Lot 2 shown on Exhibit 178.

Mr. Ransom: An appraisal on a portion of Lot 2 shown on Exhibit 178.

The Master: It won't help us at all, because it is apparently different dimensions than we have, and I cannot identify it.

22230 Mr. Ransom: It is a valuation on a part of it.

The Master: No. I won't take Mr. Levy's valuation of the Lot 2 shown on his map as any basis for giving a value for this Lot 2 shown on 178, and you might as well understand it now.

Mr. Ransom: Exception.

Q. Can you give me the square footage, Mr. Levy, of the property you assessed?

A. We have about four and one-half lots in the ground covered by the piers. That would be 12,500 square feet—11,450 square feet.

The Master: You will have to get some other kind of tetsimony unless the defendants will stipulate the value.

Mr Ransom: If they will keep on, they will give me a basis. One or two more questions by Mr. Chambers and I will be willing to stand on the record.

Q. Now, Block 1683, Lot 18, you have that, have you, Mr. Levy?

A. Yes, sir.

The Master: What are the dimensions of that?

The Witness: 75 feet 11 inches on First 22232
Avenue and 225 feet on 111th Street, with 100 feet 11 inches on that westerly line.

Q. Now, how long is that line running from the westerly line easterly?

A. 125 feet.

The Master: There is a little jog there of—

The Witness (interrupting): It is three lots on the avenue and 150 feet on the street, that is practically what it is.

The Master: Your dimensions conform with Lot 18 shown on Exhibit 178?

The Witness: Yes, sir.

Q. Now, you assessed that at $80,000; was that 22233
the full value?

A. Yes, sir.

Q. And how did you make up the assessment, Mr. Levy?

A. There is five lots on the street at $30,000 and the First Avenue lots are $39,000, $7,000 extra for the corner, and the balance is plottage.

Q. What does that plottage amount to there?

A. It is nominal in this case, not over $4,000.

Mr. Chambers: That is all.

The Master: Mr. O'Brien, any questions?

CROSS-EXAMINATION BY MR. O'BRIEN:

Q. Mr. Levy, calling your attention particularly to Block 1682, Lot 11, I will ask you what units of value you adopted for the property in private ownership on the south side of 110th Street between Second and First Avenues?

The Master: Did you adopt the same unit?

The Witness: No, sir; I do not think so. We have a unit of $240 a front foot on the south side—$320 on the north side and $280 on the south side.

22235 By the Master:

Q. Why that difference?

A. Because of the usage of the gas plant and the destructive value it does to the adjoining property.

Q. The destructive value?

A. Yes, sir.

Q. I thought you gave a higher figure for the north side?

A. I did. The adjoining property is destroyed by reason of the gas plant being there.

Q. So you give a greater value to the gas plant property?

22236 A. Positively, because of its utility. They could not take another plot in that section there and use it the same way they can use this gas plant.

Q. No, but the law requires you to value it as to what it could be sold for under ordinary circumstances?

A. Well, they could not—there isn't another plot there that could be sold for the use of a gas plant.

Q. I do not think the law requires you to value it on the basis of a gas plant?

A. Yes, it requires us to value it at what we consider the market value of the property. I considered the market value of that property.

Q. For sale?

A. For sale for that use. The first essential thing in the appraisal of any property is its utility.

Q. Let me ask you this, leaving aside the question of the particular use to which this plant property is put, the value is no greater than the south side?

A. Not unless it was used for a gas plant.

The Master: Next question.

By Mr. O'Brien:

Q. I think, Mr. Levy, you made it appear that you gave a greater value for the south side than the north side. State that again? 22238

The Master: $280 on the south side and $320 on the north side.

The Witness: The north side property is assessed at a higher unit value.

Q. Well, then, you took into consideration the fact it was being used for a gas plant?

The Master: Objection sustained.

Q. In the manufacture of gas, in placing that valuation upon it?

The Master: Objection sustained. The witness has already told us how they arrive at it. I brought out what you want. Don't look at me that way. I have reduced the value of this property to the basis of the south side for the purposes of this case. 22239

Mr. O'Brien: And on the north side—

The Master: I don't agree with the witness as to his basis of calculating. I think he has got to value them all on the basis of what property will ordinarily sell for, without regard to its present use.

The Witness: We are not assessing this property that way. If I was appraising that property without any gas plant there, I might use a

different basis, but when I take the physical condition of the property as it is, it has a certain value.

The Master: Well, I disagree with you. If you were called as a real estate expert—

The Witness: What am I now? What am I called for now?

The Master: As a public official testifying to what you appraised it at.

The Witness: All right.

The Master: I knew what was in your mind
22241 before.

Mr. O'Brien: Your Honor, they intend to qualify him as an expert.

The Witness: I have to qualify here as an expert.

The Master: Yes, in order to show that you were qualified to act as a city appraiser and to assess the value. But here is the situation. If you were called as an independent real estate expert to give the value of a piece of property owned by the gas company and used in connection with its gas business, you probably would be right in giving a fair value to that land in
22242 the light of its probable use, but my recollection of the statute is that that land must be appraised on the basis of what it will customarily—

Mr. Ransom: What it will sell for under ordinary circumstances.

The Master: Yes, what it will sell for under ordinary circumstances. Do you get my point?

The Witness: Yes, but your recollection is incorrect, if you will pardon me for telling you. When we make an assessment we do not assess the land as a part of the property, we assess the

total value of the property, land and improvements, and that is the assessment which holds in court. You could not take the assessment on land without taking both, you know.

The Master: No, but in addition to the land value that you have given us, you have given a value for improvements.

The Witness: That is the value of the total, the land and improvements, and in segregating that simply for the convenience of the public, I determine the land is worth so much and the improvements worth so much. 22244

The Master: Don't let us argue. I disagree with you as to that basis of valuation of the land.

Mr. Ransom: The land on the south side of the street would sell for less by reason of the proximity of the gas plant.

The Witness: I have got evidence to sustain that, if you want it.

Mr. Ransom: That is the situation. The land on the south side would have—

The Master: Let me get it this way. You have got a unit on the south side of $280, because of the proximity of the gas plant? 22245

The Witness: Absolutely.

Mr. O'Brien: He doesn't mean absolutely.

The Witness: Absolutely, I do mean absolutely.

The Master: You gave a value of $320 to the gas plant property because of its use as a gas plant, and because it hurt the adjoining property?

The Witness: Absolutely.

The Master: What I want you to give me is this: Assuming there is no gas plant there at

all, so you would not have to add to the value of that property used for gas purposes, because it hurts the adjoining property, depreciates the adjoining property because of the gas plant, what would be your unit?

The Witness: That could not be determined except through sales, or the use it would be put to at the time.

Mr. O'Brien: I object to the Master putting the question.

The Master: What question?

22247 Mr. O'Brien: The question asked the witness as to what unit of value he would adopt if the gas house was not there, and the property on the south side of the street had not suffered depreciation because of the proximity of the gas house.

The Master: Objection overruled.

Mr. O'Brien: Exception.

By the Master:

Q. Mr. Levy, your unit of value of about $300 must have relation to values irrespective of the gas plant, doesn't it?

A. Naturally that is guided by the sales.

Q. Do I get a correct impression—

22248 Mr. O'Brien: Your Honor will recall my objections to your questions?

The Master: Yes, the objection is recorded.

Q. Am I right in the impression that I have from your testimony that if there was no gas plant there at all that land in that section, in your judgment would be worth $300 a front foot?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, on the ground that the Master hasn't any right to take the witness out of my hands and put these questions to him at this time. On the further ground that

the witness is not qualified as an expert on real estate, and was not called by the complainant to testify as to some imaginary condition.

The Master: Objection overruled.

Mr. O'Brien: Exception.

The Master: I am trying to get clear on the record the basis upon which this witness valued this particular land for tax purposes at $320 a front foot.

Q. I would like to have you tell me if you can whether I am correct in my impression that you added about $20 a front foot because of use, and deducted 22250
about $20 a front foot because of depreciated value to adjoining property on the south, because of the gas works. In other words, that, taking the gas works away, the land there would be worth about $300 a front foot?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. The main guide I would have for that would be the sales, and the utility, the use that could be made of it, taking into consideration the present use of that property there, naturally it would not have any more value than I have it assessed for, plus the 22251
addition of the damage that the company does to it.

Q. But you must have started somewhere?

A. Certainly I started somewhere.

Q. On the south side of that street, the property is used for tenement purposes I assume?

A. Everything, poultry houses, anything that they could get to come in there.

Q. That property would change entirely in character if the gas works were away, would it?

A. Not with the present conditions that surround

it. If the gas company's plant had never been there, and these other objectionable features had not worked their way in, and that was barren land, that land naturally would be worth in my opinion the value which is now placed on the gas company property.

Q. Having in mind the course of values in that section, because of the gas works being there, you must have in your mind somewhere a unit from which you have added and subtracted?

A. Yes.

Q. Is that unit $300?

22253 Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, on the grounds I have already stated, and on the further ground that your Honor is assuming that there is a gas works here. There is no gas works here, it is just two holders and governor house.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. You know what it is used for?

A. Yes, sir.

Q. Now, whatever it is used for, when you added something to the value of the gas property because of its use, and subtracted something from the value
22254 of the property across the way because of the proximity of this gas property, you must have had in your mind a unit from which you subtracted and to which you added. In other words, am I right in my impression that you started with the figure of $300, and have added $20 a front foot to the gas property and deducted $20 a front foot for the property across the way?

Mr. O'Brien: I object to that because your Honor is speculating now upon what may have been the units of the witness, and what would have been the units under different condition than actually obtained in this neighborhood.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. I am asking you how you arrived at these figures?

A. I figured that the value on the south side, if the gas plant was not there—the north and south sides would probably be worth practically what the south side is assessed for, what the north side would be assessed for.

By Mr. Ransom:

Q. About $320?

A. About $320. Because of the fact that the south 22256
side is destroyed I have allowed them a certain percentage of deduction in their value.

By the Master:

Q. But you told us before that you added something to the value of the north side?

A. No, I told you that the destructive value caused by the north side was my reason for lowering it on the south side.

Q. Then you didn't add anything?

A. I didn't add anything, simply deducted from the south side.

Q. You took the basis as $320?

A. Yes, sir. 22257

Q. And took from the $320, $40 because of the destructive value to the south side property?

A. Yes, sir.

By Mr. O'Brien:

Q. Then you don't mean to say that you have added anything to the value of this plant because it is used for gas works, or gas purposes?

A. In the units, no, but in the plottage.

Q. In the plottage?

A. Yes, sir.

Q. You have taken care of that there?

A. Yes, sir.

Q. What per cent for plottage have you added on to the land values here?

A. Twenty-five per cent.

Q. That is an unusual amount to add for plottage, isn't it?

A. Not in special cases.

Q. You consider this a special case?

A. I consider this the most special instance of utility in the City of New York, because there is no section in the City of New York, on Manhattan Island especially, where another gas plant could be
22259 erected.

Q. Well, they don't have to be erected in Manhattan, do they?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. What unit did you use in assessing the property in Block 1683, Mr. Levy, north side of East 111th Street between First and Second Avenues?

A. The same proposition there.

Q. $240 a front foot?

A. $280. The same condition on both, the same consideration was shown.

22260 Q. It is $240 on the south side of 110th Street, and $280 on the north side of 111th Street?

A. There might be a difference in the value of a block?

The Master: Why do you say $240 on the south side of 110th Street? The witness said $280.

Mr. O'Brien: If the witness didn't say $240 in his first answer I made an error. I took it down here.

Q. What units did you use on the west side of Second Avenue, opposite Block 1682, between 110th and 111th Streets?

A. On Second Avenue?

Q. Yes.

A. It is not affected by this. They don't run over to Second Avenue.

Q. Did you use the same unit that you have in this—

A. On Second Avenue, in Block 1682, did you say?

Q. On either side of Second Avenue, what unit did you use on the Avenue?

A. $360 a front foot, on Block 1682. The same on both sides of Second Avenue. 22262

Q. How much a front foot?

A. $360.

Q. What did you use on First Avenue in the same block?

The Master: He gave us that. That is all there is on First Avenue, is Block 1682, Lot 11.

A. You will find the unit on the east side there, 110th and 111th, the Standard Gas Light plant, is even higher. It is $440 on each side of the street.

Q. Why did you give that a greater front foot value than you did Second Avenue?

The Master: Objection sustained. 22263

Mr. O'Brien: Does your Honor assume that has already been answered?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Turning to Block 1704, Lot 5, will you give us your valuations on both 110th and 111th Streets, per front foot?

The Master: Objection sustained. He has already given it. He said how he arrived at the total figure.

Mr. O'Brien: Are you sure of that, your Honor?

The Master: Yes, Mr. Chambers asked him how he got the figure for Block 1704.

Q. Did you testify on that this morning?

A. Yes, sir.

Q. On the south side of 110th Street, in the block between Pleasant and First Avenues, what unit did you adopt, Mr. Levy?

A. $220 a front foot.

Q. Did you make the same deductions there?

22265 A. The same consideration was shown in assessing all property.

The Master: In other words, you thought the adjoining property was worth a little less than it otherwise would be worth if the gas company was not there?

The Witness: Yes, sir.

Mr. Vilas: There is no evidence that there is any gas works on this property.

The Witness: The coal yard of the gas company.

The Master: You think that depreciated it?

The Witness: Yes, sir.

22266 Q. When you put a valuation on Block 1704, Lot 5, what plottage did you use, what percentage for plottage?

The Master: He has already given us that. Objection sustained.

The Witness: The same as on all.

Q. Twenty-five per cent?

A. Yes, sir.

Q. Did you assume in giving that plottage to Block 1704, Lot 5, that the whole of the block was used for gas purposes, including the part used by the Standard Gas Company for its building?

A. Yes, sir.

Q. You took the whole block for one use, and so added your plottage?

A. Yes, sir.

Q. Did you add anything to what would be the ordinary valuation of Block 1704, Lot 5, for the reason that it was opposite Jefferson Park?

A. Did I take that into consideration?

Q. Did you add anything to its value by reason of the fact that it faced upon the park?

A. No.

Q. When you say that you gave these two plots a plottage of 25 per cent because of the special use and 22268
the difficulty in getting large plots, did you have in mind the vacant plots that there are in that part of Manhattan?

A. Yes, sir.

Q. Do you know how many there are in that neighborhood?

A. Not by numbers, but I can give you the blocks, I can tell you where they are. There are very few blocks there where you could get ten lots without buying the buildings, which runs the cost very much higher.

Q. It is a stagnant market, isn't it, in this section? 22269

A. It may be stagnant, but there are more or less improvements on all the lots there.

Q. But there haven't been any sales in recent years within a ten-block radius of this section, has there?

A. Oh, yes, there were sales on Ninety-ninth Street right opposite the gas plant, of vacant land.

Q. How long ago?

A. In the last twelve months. The property on the north side of the street, on Ninety-ninth Street, was bought in 1907 by a very prominent real estate operator, Clementine Silverman & Sons, with the idea

of improving it with flat houses. To her chagrin she was forced to let most of this property slide. She sold it eventually at much less than it cost her.

Mr. O'Brien: Do you want that chagrin to be in this record?

The Master: Motion to strike it out granted. I think the cross-examination of Mr. Levy, and other deputies from the Tax Department is a waste of time. That is their valuation, that is what they have appraised it at for tax purposes. If you think they are too high show it. If you
22271 think they are too low keep your mouth shut. What is the use of wasting a lot of time?

Mr. O'Brien: Your Honor, I am not on the witness stand.

The Master: I know you are not. I am going to limit this cross-examination pretty quick now, to save time.

Q. Mr. Levy, you speak about activities and sales. Take a radius of ten blocks and give us the sales in the last ten years?

A. Well, there have been sales, but most of them have been foreclosure sales.

Q. I will abbreviate this. Have there been many
22272 sales during that time?

A. No. There have been sales, but they are mostly foreclosure sales or executor's sales—forced. I suppose you are referring now to sales of tenement property?

Q. No, any kind of property?

A. Oh, there have been any number of them. Here is a list of them. Do you want to put that in?

The Master: Mr. O'Brien may, but I will not.

The Witness: You do not want to take the time to read it?

The Master: No, we will not take the time to read that.

The Witness: They run from Ninety-sixth Street north to One Hundred and Sixteenth Street. There are ten pages of them.

Q. Within what period?

A. From 1907, from the time of the rosy days, up to the present hour.

Q. You look upon 1907 as a rosy day?

The Master: Objection sustained. If you knew anything about real estate you would not ask the question. 22274

A. They were the rosy days.

Q. Have these sales that you speak of been all of tenement houses?

The Master: Objection sustained. The witness said all kinds of property.

Mr. O'Brien: I want to get some brief statement on the record, your Honor, as to the trend of the market in this particular neighborhood.

The Master: Ask him that question.

Mr. O'Brien: I do not intend to take up a whole lot of time with it.

Q. Were these sales that you speak of, from 96th Street to 116th Street, more or less forced sales? 22275

The Master: He said so.

Mr. O'Brien: As to vacant land he did.

The Master: He said as to all property.

A. And as to vacant properties there, due of course more than anything else—not alone to the condition of the market but the fear of an owner desiring to have property in that locality near the gas company.

Q. What percentage of the sales would you say were forced in the last ten years?

A. Of all the sales I had under consideration I think they were all forced sales. Well, not all, but the

greater percentage of them. It would be the larger percentage of them. Some were voluntary sales.

The Master: You will probably stipulate these values; what is the use of wasting time?

Mr. Ransom: I am sure they will not attack them.

The Master: I think they will stipulate them.

Q. Mr. Levy, how long have you been in this district?

The Master: Objection sustained as already covered.

22277 Mr. O'Brien: Well, that is preliminary to asking some other questions.

The Master: Get to the next one that is not preliminary.

Q. You took the valuations of your predecessor, Mr. Levy, and used the same valuations as to this property?

A. In this particular instance—in all instances in making assessments we have the previous values, but the deputy's sworn duty is to examine each piece of property and refigure it and reappraise it himself. It might be similar.

The Master: The answer is that you knew
22278 what your predecessor appraised it at, and if you agreed with him you carried it forward, if you did not you changed it?

The Witness: Certainly.

Q. Did you do that on Block 1704, Lot 5?

A. On all of them.

Q. On all that you have testified to?

A. Yes, sir.

Q. You have concurred with your predecessor?

A. Yes, sir.

The Master: You will not get anywhere with Mr. Levy on this examination.

Mr. O'Brien: But I would like to do things in my own way, your Honor.

The Master: And I am here to stop the waste of time.

Mr. O'Brien: I want to say something for the record as to the cross-examination and the comment made by the Master on November 20th, if you will permit me.

The Master: No.

Mr. O'Brien: At that time you—

The Master: I will not let you read that at this time. Have you any more questions of Mr. 22280
Levy?

Mr. O'Brien: These interruptions have kind of gotten me away from the line I intended to go ahead with.

Q. Mr. Levy, did you take into consideration in putting your assessment on Lot 18 of Block 1682 the uses to which that property was put, and was your valuation influenced by the use to which that plot was put?

Mr. Ransom: Objected to.

The Master: Objection sustained. As I understand the witness's testimony—and he will correct me if I am not right—in each instance 22281
he took into consideration, in adding the plottage value to the plot about which he testified, the use to which it was put.

Q. Did you put a plottage on the small plot, Block 1682, Lot 18, the northwest corner of First Avenue and 111th Street?

The Master: Objection sustained. He has told us what he added for plottage on each parcel.

Q. Would you say it was a difficult thing to get a lot shaped like Lot 18, of the same capacity, in that neighborhood?

22282 Herman J. Levy, Cross.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. As to Lots 32 and 33 on Block 1642, the north side of East 114th Street, did you use the same units as you did for the south side of East 114th Street?

The Master: Objection sustained. I shall limit the cross-examination in this respect, the witness having testified that, generally speaking, as to all of these parcels, he felt that the use to which the property was being put depreciated the value of the property on the other side of the

22283 street.

Mr. O'Brien: This is a part just for commercial purposes, your Honor.

The Witness: Pardon me, this is the office property, and that naturally did not apply to what was used for the gas plant.

The Master: Answer the question, then.

A. There was only ten per cent plottage in the same units as the adjoining property.

Q. Why did you use ten per cent plottage there?

Mr. Vilas: Objected to.

A. Because of the size of the plot and the use the property was put to.

22284 Q. Do you call that L shape size a plot, one possessing elements of plottage, with such a short frontage on Third Avenue?

A. Sufficient to make up a difference in value of a similar plot not used by the gas company as an office, which while it was not detrimental to the adjoining property had a special unique value to it, such as no other property in that neighborhood is used for, commercial purposes, making it more valuable specifically than any other piece around it.

The Master: In your opinion it was worth ten per cent for plottage?

The Witness: Yes, sir.

Q. Because of its size?

The Master: He has told you the reason.

A. Its utility, its use.

The Master: For all the reasons he has given.

Mr. O'Brien: We are not talking about a large plot, your Honor, but a little plot 50 by 100.

The Master: But he is telling us about this little plot on a corner.

Mr. O'Brien: No, there is only 25 feet on the corner.

The Witness: You see, the whole ingenious 22286
use of that street property with the avenue would make it worth ten per cent more. They get all the advantage of the Third Avenue use of that property because it has the corner property.

The Master: It controls the corner.

Q. We understand the plottage that you give it there, ten per cent for plottage, is really the additional valuation due to its front on Third Avenue?

A. Due to its use. You know, the amount of plottage you place on it is simply the arbitrary difference between that property itself used as it is and the joint property used differently.

Q. You do not give it ten per cent additional value, 22287
Mr. Levy, because people come there and pay the gas bills on that lot?

A. That is what I do. Because that is used for a commercial use. You could not put the same kind of a building across the street and expect to rent it to the public and get the same use of it as the gas company is. Not in that neghborhood.

Q. Well, I will not pause on that. Your idea is that it is worth more to the gas company than it would be to some individual owner.

A. That is what I said.

22288 Herman J. Levy, Cross.

The Master: I also understood you to say that because of its frontage on the avenue it had an element of value.

The Witness: Its frontage and use together, by the gas company, in that manner.

Q. As to the 99th Street works, Block 1670, Lot 1, Block 1692, Lot 1, you have used a plottage of twenty-five per cent and charged it up at least for the same reason that you have already expressed with regard to the 111th Street station?

A. Yes, sir.

22289 Q. Is there about the same difference between the valuation per running foot of the gas company's property on 98th and 99th Streets and the property across the street, in private ownership, that you used in 111th and 110th Streets?

A. Yes, sir.

Q. The percentage of difference is not any greater?

A. No, no greater.

Q. Did you consider the property on the south side of 98th Street, between Second Avenue and First Avenue, had depreciated in value by reason of the proximity of the gas works?

A. That is what I stated.

22290 Q. Do you know whether the men in the gas company's employ live in these houses around there?

Mr. Vilas: Objected to.

A. They could not live in 98th Street, because there are no houses there.

The Master: Objection sustained.

Q. Do you know where there are houses for the men working in the gas works?

The Master: Objection sustained. We are not trying to get this witness's judgment as to the value of property on the other side of the street. The question is whether his judgment

was right as to the value of the property of the gas company, and he has testified if it were not for the gas works here he would value the property across the way at as much as he does this. That is all there is to it.

Q. Do you think the property if it was put under the hammer today, at least on October 1st, of 1919, this block 1670, Lot 1—that the land would bring what you have given it in your assessment?

Mr. Vilas: Objected to.

The Master: Objection sustained. That is not the standard used by the statute. That would not 22292
be an ordinary course or ordinary circumstance. The minute you put it under the hammer it is under extraordinary circumstances and would never bring its true value.

Mr. O'Brien: I take that expression to mean in an open sale, under ordinary conditions.

The Master: The objection is sustained to the question as you put it before. The objection is likewise sustained as to whether the witness thinks it would bring this amount under ordinary circumstances in the open market, because he has testified that is the basis on which he valued it and that is his judgment. 22293

Q. Was it your belief when you made these assessments, Mr. Levy, that these plots together with those on 110th and 111th Streets are more valuable to the gas company than they would be to an individual owner?

Mr. Ransom: Objected to.

The Master: Objection sustained. It is sufficiently covered.

Mr. O'Brien: Exception.

Q. Mr. Levy, is that territory shown on Marginal Street on this diagram H-11 of Exhibit 178, which

I show you, included in your valuation of Block 1692, Lot 1 (indicating exhibit)?

A. The Marginal Street?

Q. Yes.

A. No, here is the plot that is assessed (indicating).

Mr. Ransom: Indicating the area shown on sheet 11.

The Witness: What block is that again?

Mr. O'Brien: Lot 1, Block 1692.

Mr. Ransom: I object to the question. It was
22295 asked by Mr. Chambers and he gave the precise dimensions.

The Witness: I gave you all the details of that assessment.

Q. Does not Block 1692, Lot 1, extend to the water front?

A. No, it only extends to the Marginal Street.

Q. I mean physically and actually?

Mr. Ransom: Objected to.

The Master: That is what the witness means, I suppose. Objection sustained.

A. It extends to the Marginal Street.

The Master: The other side of Marginal Street
22296 is the water front, I suppose?

The Witness: Yes, sir.

Q. What is marked as Marginal Street here now occupied by the complainant?

The Master: Is Marginal Street occupied by the complainant?

Mr. O'Brien: Yes.

A. If it is I do not know anything about it. When I assessed it I assessed it as the map shows it. The map does not show that.

Q. Do you know whether Marginal Street has been laid out physically by the city?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I note an exception. These things bear upon the value of the property.

The Master: Note your exception and ask your next question.

Q. Did you give Block 1692, Lot 1, the valuation you have stated on the theory that it fronted upon Marginal Street on the east?

A. Yes, sir.

Q. Did you assume for the purposes of your valuation that said street actually exists and is laid out physically? 22298

A. It was not assessed with any consideration for the value on the easterly end whatever. We did not put any frontage value there. The calculations were made from First Avenue, 98th Street and 99th Street.

Q. Mr. Levy, has the real estate market been stagnant in this neighborhood for a number of years?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Has there been any marked increase in the last four or five years?

The Master: Same ruling. 22299

Mr. O'Brien: Exception.

Q. Have all the sales, as you testified, when I questioned you with respect to the 111th Street property, all sales in this particular neighborhood in the last eight to ten years, been more or less forced sales?

The Master: Same ruling.

Q. Foreclosure of mortgages, bankruptcies, etc.?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Would you state anything different with respect to the trend of the real estate market in the last ten

years, and the condition of the same within the radius of ten blocks of the 99th Street works, than you did with respect to the 110th and 111th Street stations?

The Master: Same ruling. The Master states that from his own knowledge of conditions on Manhattan Island, when you get ten blocks away from 99th Street and Second Avenue you have gotten over to 99th Street and Fifth Avenue and you are in an entirely different section of the world. There is no comparison between this property and the property ten blocks away.

22301 Mr. O'Brien: I will ask the witness the question modified to meet the Master's views.

Q. I ask you, Mr. Levy, what have been the sales in this neighborhood within a radius of, say, five blocks north and south and west in the last ten years?

The Master: I will sustain that objection unless the witness will state that the conditions do not change five blocks away.

A. When you go west of First Avenue you find a different market.

The Master: A different market, a different kind of property?

The Witness: Yes.

22302 The Master: The minute that you get over to the Lexington Avenue Subway now—

The Witness: And you said east of the avenue, five blocks north or south, and those are all the same.

The Master: You cannot waste time with me on that. You have got to stay east of Second Avenue—east of Third Avenue.

Mr. O'Brien: I will ask the witness about the territory east of Third Avenue and within a radius of five blocks from the 99th Street Works.

The Master: North and south?

Mr. O'Brien: North and south.

The Master: Has there been any difference there than there was in the situation further north? There have been the same general market conditions?

The Witness: I would say they are more depressing and have been at all times. All property situated in proximity to those works was less desirable, no matter how good or bad the market was.

Q. It has been depressed for other reasons besides the proximity of the gas house, has it not? 22304

A. I am telling you at all times it is less desirable than it would be in any other section, whether the market is good or bad.

By the Master:

Q. That section generally speaking, Mr. Levy, east of Third Avenue from the 90's—89th Street or 90th Street, right east of the brewery properties and along there, and up along the Gas Works property—is always undesirable property?

A. Yes, sir.

Q. And it has been depressed as much as all other property and a little more because of its undesirability? 22305

A. That is the idea.

Q. For the last eight or ten years?

A. Yes, sir.

The Master: Let us get along. Is there anything else?

Mr. O'Brien: I am sorry that the Master is in such a hurry, because this examination might illuminate not only the witness's particular testimony, but the testimony of the various assessors, as bringing out the conditions that have obtained toward the river on each side of the city, and also

22306 John F. Tracey, Cross.

with regard to their dependency upon sales as determining the value of property at the present time.

The Master: I think the witness has been cross-examined sufficiently. I will direct that he leave the stand.

Mr. O'Brien: I note an exception to your Honor's ruling in that respect.

22307 JOHN F. TRACEY recalled for cross-examination.

Mr. Ransom: I have no more direct of this witness.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Mr. Tracey, take Block 1090, Lot 23. Have you that?

A. I have.

Q. What are the dimensions you use?

A. 150 feet on 42nd Street by 100 feet 5 inches in depth.

Q. And that you assess at $82,500?

A. That includes the improvements.

22308 Q. That includes the improvements?

A. That is the total value with the ten per cent added to the unit.

Q. What valuation do you place upon it without the improvements?

A. Nothing on the improvements at all.

By the Master:

Q. Your testimony, Mr. Tracey, was the value of the unimproved land?

A. $82,500.

Q. Yes. In that $82,500 you have included something for plottage or for use?

A. $7,500 for plottage.

Q. But in this $82,500 you did not include anything for improvements, or any buildings?

A. No.

Q. So it is right for the unimproved land?

A. $82,500 for the unimproved.

By Mr. Chambers:

Q. Full value is that?

A. $82,500, yes, sir.

Q. How did you arrive at that assessment?

A. $500 per front foot.

Q. On West 42nd Street?

A. Yes, sir. 22310

Q. Did you assess it any other years?

A. Ten years prior to that?

Q. You have assessed it ten years prior?

A. Yes.

Q. You do not remember what the assessment was then?

A. No.

Q. Now, Block 1089, Lot 1, please give me the dimensions of that?

A. Well, that is bounded by Eleventh and Twelfth Avenues, 41st and 42nd Streets.

Q. Give me the dimensions?

A. 800 feet on 41st Street, 800 feet on 42nd Street. 22311

The Master: What do you make it on Eleventh Avenue?

The Witness: 197 feet, 6 inches. That is right through the block.

Q. Now, it is that piece of property you said was of that value?

A. Yes.

Q. Now, look at your map, will you? Is it 250 feet from the westerly side of this Lot 1 we are talking about, to the bulkhead line?

A. That doesn't show any dimensions between that line and the bulkhead line.

22312 John F. Tracey, Cross.

Q. You don't know how far it is?

A. No.

Q. Now, the Block 1089, Lot 1, that you have just given me the dimension of, is the same length as Block 1090 just above there, isn't it? I mean you ended just where Block 1090 ends on the west?

A. About the same, yes.

Q. What?

A. The same place.

Q. I mean, so it is the same distance from the Eleventh Avenue over west?

22313 The Master: Just step up here a minute, please, Mr. Tracey. I am showing you Sheet 6 on Exhibit 178. Now, that apparently is the westerly line of Block 1090. I suppose Twelfth Avenue was there, wasn't it?

The Witness: Yes.

The Master: Now, on my Sheet 6 of Exhibit 178 there is a lead pencil mark that apparently is a continuation of the easterly line of Twelfth Avenue, isn't it?

The Witness: Yes.

The Master: Yes, and your 800 feet runs to that lead pencil line. Just put your initials here, will you?

22314 (Witness complies.)

Q. That is the full value of the lot?

A. It is.

Q. What have you to the west of that line you just marked with your initials, where Twelfth Avenue used to be?

A. That is the ferry in through there (indicating).

The Master: Isn't there a Lot 7 in Block 1107 in there somewhere?

The Witness: Yes, it is down at the water front. It is another block.

The Master: Where is Lot 7?

The Witness: That takes in all of this (indicating).

Q. What is the dimension of Lot 7, is it given?

The Master: That space between these two pencil lines on Exhibit 178, Sheet 6, apparently they are the lines of Twelfth Avenue, aren't they?

Mr. Vilas: The lines of Twelfth Avenue produced.

The Witness: You want the dimensions of Lot 7 in Block 1107?

Q. Yes. 22316

A. On 41st Street 405 feet, on 42nd Street, 421 feet, 2 inches. On Twelfth Avenue, 197 feet, 6 inches.

Q. Where do you begin on the east there, Mr. Tracey?

The Master: At Twelfth Avenue, he said.

The Witness: Twelfth Avenue.

Q. Then there is Twelfth Avenue in between these two lots, Lot 1, Block 1089 and Lot 7, Block 1107?

A. It is.

Q. Is that assessed to anybody?

A. That is Lot 7.

Q. No, the Twelfth Avenue?

A. No, it is not included. 22317

Q. It is a street on this?

A. It is a street.

Q. It is not assessed to anybody. What is the width of it?

A. It does not give any dimensions here at all, but it appears to be about one hundred feet, or 97 feet 6 inches. It does not give any dimensions.

The Master: It would not be as wide as that, would it?

The Witness: That is according to this map.

Q. How far to the west does that 421 feet go?

A. 421 feet from the west side of Twelfth Avenue.

Q. How far out in the water does it run?

By the Master:

Q. Just look at his exhibit, Mr. Tracey. Perhaps you can tell better. Does it include all of this (indicating)? It probably begins at this other line, doesn't it, as the west line of Twelfth Avenue?

A. That is where it does begin.

Q. Now, does it run out, would you say, to about where this map shows?

A. According to this diagram here, out to this point here.

22319 Q. To this point here (indicating). Put your initials there, will you?

(Witness complies.)

Q. Now, you have put your initials on a line which is immediately west of the parallelogram I should call it, as near as I could get it. What does it indicate. What is this in here?

A. This is a sort of a bridge.

Q. A pier of some kind. This line you have indicated is the line immedately to the west of that where you have put your initials?

A. That is right.

Q. To the south end of that same line. In other
22320 words, the boundary of this Lot 7 would be between the number 1 where I have put it on the east, and the number 2 where I have put it on the west, is that right?

A. That is not assessed.

Q. And between No. 1 where I have marked it on the east of Block 1107, and your initials, "J. F. T." is the lines of Twelfth Avenue that are not assessed?

A. Not assessed.

By Mr. Chambers:

Q. What assessed value did you put on this Lot 7 that you have just described?

A. $375,000 for the unimproved, that is Block 1107, Lot No. 7.

Q. Yes. Now, is there some easement or something over that Block 1107, Lot 7?

A. I have not assessed any easement.

Q. You have not?

A. No, sir.

Q. How do you work out that assessment for Lot 7, Block 1107?

A. The bulkhead 197 1/2 feet at $500 a lineal foot and 20,597 feet of upland at $4 a square foot and 8,208 square feet of submerged upland at $3.25 a square foot and 16,680 square feet of land under water at $8 a square foot.

22322

Q. Now, this land under water out here beyond the dotted lines that you have just shown to the west of this dotted line beyond the pier, is that assessed to anybody?

A. No.

Q. Why?

A. Because it is not included in this lot number for the purpose of assessment. The information received by me from the deputy in charge of real estate of corporations, who was to instruct us as to what to assess as water front, was given to me to assess out to that line, as I have described, 405 feet, and all of that area that I just gave to you now, comes within the boundary lines of that area.

22323

Q. Is that assessed to anybody, that land under water?

A. No.

The Master: West of that point?

The Witness: No.

Q. West of that point?

A. No.

Q. Have you got any note there that shows what that is, or who it belongs to, or anything about it?

A. No.

Q. Just treated it as river, I suppose?

A. That is all it is.

Q. Now, take Block 1093, Lot 9, where are your dimensions for that, Mr. Tracey? The dimension on West 45th Street?

A. 369 feet 2 3/4 inches; on 46th Street, 265 feet 6 1/4 inches.

Q. Now, its depth parallel with Eleventh Avenue on the east?

A. On the east 105 feet.

The Master: That is half. 200 feet 10 inches
22325 parallel is the depth.

The Witness: 200 feet 10 inches, that is right.

Q. Is that—what is it?

A. Yes. No, it is not, it was 100 feet 5 inches, just as I have shown it, but there has been a change made in this tax map since 1919, and a new number created known as Lot No. 21, which came out of this Lot No. 9 for the 1920 taxes, which is a plot 75 feet by 100 feet 5 inches, and that is why your map is different from mine.

By the Master:

Q. There has been a change in this map, has there, Mr. Tracey, for 1920?

22326 A. There has been.

Q. Now, for 1920, Lot No. 9 of 1093 has as its easterly line a line running straight through the block 200 feet 10 inches?

A. It has.

Q. And its northerly line on 46th Street is 265 feet 6 1/4 inches?

A. Correct.

Q. And its southerly line?

A. Is 369 feet 2 3/4 inches.

Q. Does that include this 36 feet here (indicating)?

A. It includes this 75 here, yes, sir.

Q. Not for 1920?

A. For 1920 it would be—

Q. 257 feet, 6 plus 36 feet 8 3/4 inches, is that right?

A. Yes.

Mr. Chambers: Making how much in all?

The Witness: 294 feet 2 3/4 inches.

Q. Now, just look at your Lot 9 for 1920, is that Lot 9 that I now show you on Sheet 7 of Exhibit 178?

A. It is.

Q. Now, for 1919, your Lot 9 included what you have already described? 22328

A. Yes.

Q. And an additional plot 75 feet front on 45th Street, and 100 feet 5 inches in depth, is that right?

A. Yes, known as Lot 21.

Q. Which is now known for 1920 as Lot No. 21?

A. Correct.

Q. So that your valuation for Lot 9 as it existed for 1919 included more property than Lot No. 9 now shown on Exhibit 178?

A. It did.

Q. By the quantity of 75 feet on 45th Street and 100 feet 5 inches in depth?

A. Yes. 22329

By Mr. Chambers:

Q. What is the value of Lot 9 as now shown on Exhibit 178?

A. At the present time?

Q. Yes.

A. That I do not know.

Q. Could you give that?

A. I don't know.

The Master: For 1920?

Q. If I followed you the last statement he made was for the bigger piece of property?

The Master: You have made your assessment here?

The Witness: I did not fix the assessment for 1920, it was another man. I do not know what his figures are.

By the Master:

Q. Now, for 1919, taking your assessment of October 1, 1918, for Lot 9, you have figured it to be worth $260,000, didn't you?

A. The land.

Q. For that land. But that included that part of it
22331 which was 75 feet by 100 feet 5 inches on 45th Street?

A. Which is now known as Lot 21, yes, sir.

Q. What do you figure lots on 45th Street to be worth in 1918, for the 1919 assessment?

A. $360 a front foot.

Q. So if we take off 75 times $360, we will have subtracted from that $260,000 that 75 by 100?

A. No.

Q. There is some plottage to take off?

A. You have to deduct plottage with it.

Q. How much will you have to deduct for plottage?

A. The plottage added to that plot was 13 1/2 per cent plottage, so that if you take 75 feet by $360 plus
22332 13 1/2 per cent for plottage, why, that will give you what was left for the other, even including the plottage.

By Mr. Chambers:

Q. That covers this lot?

A. What it shows at the present time on that exhibit.

Q. Did you say $360 or $260?

A. $360 a front foot.

Q. Was that the full value of that lot and block as we have reduced it, that is the full value in your judgment?

A. I don't know what you reduced it.

Q. Taking off Lot 21, you gave us the balance, that is the full value?

A. I gave you a total value of $260,000 for 1919. Now, what you took off I don't know.

Q. Well, you gave us what you took off?

A. I told you how to take it off; I didn't give you the figures, I told you how.

Q. If we follow your computation, and take off for Lot 21, do it in the manner you have indicated, the plottage, etc., that will leave the full value of the remaining?

A. It will. 22334

Q. Just as if you testified to the full value?

A. It would, provided you figure it correctly.

Q. And if you made the computation you would then say that the figure that you obtained would be the full value of that part shown on Exhibit 178?

A. It would.

Q. Now Block 1092, Lot 7, just give me, will you, the dimensions of that, Block 1092, Lot 7?

A. 44th Street, 516 feet 3 7/8 inches.

Q. Where do you run, clear over to Eleventh Avenue?

A. No, run about 125 feet west of Eleventh Avenue. 22335

The Master: How many feet do you get?

The Witness: I get 516 feet 3 7/8 inches. There is land in between that proposed street.

Q. Let us see your map, so we can straighten this out. We apparently begin all right on the east.

The Master: Just tell me what you have.

The Witness: The frontage of this plot, fronting on 44th Street, measuring 125 feet west of Eleventh Avenue beginning from that point, running down 516 feet 3 7/8 inches on the north side of 44th Street. On 45th Street it is 430 feet 3/4 inches.

Q. That is the kind of lot you have?

A. Yes, sir.

Q. And that is the one that you assessed at $400,000?

A. Yes, sir.

Q. Isn't there a jog on the east, that line doesn't run straight across, does it?

A. It begins 125 feet west of Eleventh Avenue on 44th Street, and it begins 175 feet west of Eleventh Avenue—there is a 50 foot jog.

Q. Then that strip is 50 feet wide on the street and
22337 in the rear by 100 feet 5 inches?

A. Not on the rear.

Q. On the side, I mean it is 50 by 100 feet 5 inches?

A. Yes, sir.

The Master: That is the jog?

Mr. Chambers: That is the jog.

The Master: There is no use wasting any time any further with this. He has given us the valuation for a large plot. What was your unit there?

The Witness: The unit of value on both streets was $360 per front foot.

Q. $360 per front foot?

A. Yes.

Q. What was the plottage?
22338

A. 17 1/2 per cent plottage.

The Master: Don't waste any more time on that.

Q. Have you got a street frontage on the west?

A. No.

Q. It does not run clear over to a street?

A. No, I figured that front on 44th Street and 45th Street, I added nothing for corner influence, so there are no corners added to it, and it is treated as not being a street on the west.

Q. Now, Block 1177, Lot 21—give me the dimensions of that?

A. Do you want the dimensions as of a plot, the unit?

Q. Yes.

A. On West End Avenue from 65th to 86th Street, measuring 200 feet 10 inches—I practically used 201 feet, 2 inches short—$560 per front foot, plus the corner influence, 60 per cent for corner influence, each corner.

Q. Now, west 65th Street?

A. West 65th Street, beginning 100 feet west of West End Avenue, 199 feet 9 inches—$240 a front foot. 22340

West 66th Street, 100 feet on West 66th Street at $280 a front foot.

The Master: How many feet have you figured on 66th Street?

Q. In all?

The Master: 243 feet?

The Witness: 243 feet 9 inches.

Q. At how much?

A. On 66th Street, 100 feet at $280 a front foot, and on 65th Street, 100 feet at $260 a front foot, The balance of 43 feet, at $250 a front foot. That was scaled down from $280 to $250, three units.

Q. Now, on 65th Street, 199 3/4 feet on 65th Street 22341
at $240 a front foot, and 10 per cent for plottage, plus the corner influence.

Q. Now on the North River what have you?

A. It does not run to the North River.

Q. Oh, on the North River railroad—what is your westerly boundary?

The Master: That has got to be the same as this, because his other dimensions are the same. If I remember anything about mathematics at all that westerly line must be the same.

The Witness: 299 feet 9 inches from West End Avenue—

The Master: What is the westerly boundary line there?

The Witness: The railroad. It is bounded by the railroad on the west.

The Master: What is the distance on the railroad?

The Witness: 205 feet 7 1/8 inches. It runs on an angle.

Q. You have a little strip of 100 feet to the east of this lot on West End Avenue?

A. I have no strip east of that.

22343 The Master: He has valued that West End Avenue strip, he gave you that. He takes off a strip 100 feet on West End Avenue, and gives it one unit of measurement.

The Witness: But I applied the 60 per cent unit to the corner.

Q. Is that the full valuation?

A. Yes, sir.

Q. Now, Block 1157, Lot 1, what are your dimensions for that?

A. Do you want that as I assessed it, showing the frontage on avenues and streets?

Q. Yes, give us the dimensions and then how you

22344 assessed it.

A. 200 feet 10 inches on Amsterdam Avenue running from 65th to 66th Street. 200 feet 10 inches on West End Avenue running from 65th Street to 66th Street. 600 feet on the north side of 65 Street, and 600 feet on the south side of 65th Street. It comes out of that 200 feet used on the avenue frontage, making a total of that block of 800 by 200 feet 10 inches.

By the Master:

Q. What is your unit on Amsterdam Avenue?

A. $680 a front foot, and 50 per cent corner influence for the corners.

Q. And West End Avenue?

A. $560 with 50 per cent for corner influence.

Q. How about the 66th Street lot?

A. That is a scaled unit. On 66th Street, 400 feet at $360; 200 feet at $320 a front foot.

Q. Which is the cheaper, the westerly end?

A. Going from Amsterdam Avenue over.

Q. Nearer to West End Avenue is the cheaper unit?

A. Yes, sir.

Q. Now, on 65th Street?

A. 400 feet on 65th Street, $360 a front foot; 200 22346
feet on 65th Street at $320 a front foot—located in the same manner as the other street.

Q. The cheaper being toward West End Avenue?

A. Yes, sir. the cheaper being toward West End Avenue.

By Mr. Chambers:

Q. What for plottage?

A. 17 1/2 per cent.

Q. Is that the full value in your opinion of that land?

A. It is.

Q. Now, Block 1028, Lot 38, give me the dimensions of that, will you? 22347

A. That is on the south side of 57th Street, 120 foot frontage, and on the east line 89 feet. It runs in on an angle and then it runs 11 feet to the south end of the lot.

The Master: What is the west end?

The Witness: 106 feet 11 inches.

The Master: And the rear line is an irregular line?

The Witness: 85 feet on the rear line, and then there is 11 feet running north, and then an angle running over to the 89 feet on the east.

The Master: Well, it is irregular?

The Witness: It is irrelgular.

The Master: Look at this Exhibit 178 and see if you identify it as your plot?

The Witness: I do.

The Master: It is substantially the same plot that you appraised?

The Witness: It is.

Q. How did you arrive at the assessment of $400,000 for that?

A. The Central Presbyterian Church was the owner
22349 of that land. On November 1, 1915, the Supreme Court, First Department, Justice Erlanger, signed an order permitting the Central Presbyterian Church to sell this property to the Lawyers' Realty Company for $400,000. The Consolidated Gas Company was the real buyer, as I have been informed by a number of brokers, as these were only dummies to turn it over to them.

Q. They didn't come out in the open?

A. I don't know.

Q. The Consolidated Gas Company was behind the breastworks?

A. That is the purchase price.

22350 The Master: You based it on the actual purchase price?

A. Yes, sir, after I extracted the unit, I found that the unit I used exactly fitted that sale.

Q. Is that the full value of it in your judgment?

A. It is, of the land unimproved.

Mr. Chambers: That seems to be all I have for this witness.

The Master: Mr. O'Brien, what have you got?

CROSS-EXAMINATION BY MR. O'BRIEN:

Q. Mr. Tracey, on the south side of 41st Street did you use the same units of value that you did in connection with the complainant's property, Block 1089, Lot 1?

A. Yes.

Q. Your answer is "yes," you made no difference between the private property on the south side and the gas company's property on the north side?

A. Not as I can recall.

Q. Did you use a different unit on 42nd Street in connection with Block 1090, private property? 22352

A. No.

Q. Did your units per front foot on 11th Avenue, frontage of Block 1089, differ from the opposite side of the avenue?

The Master: Let us get at it in another way. Did you hear Mr. Levy's testimony, Mr. Tracey?

The Witness: I did.

The Master: He gave a lower value to adjoining property in private ownerships. You did not follow that theory?

The Witness: According to conditions. I made my assessments according to my own opinion and conditions. Cases that I might have here 22353 were different from the property that Mr. Levy had, where there might not be any difference on the south side and north side, considering the air space that they might have had that Mr. Levy's property might not have had.

Q. You mean for open ventilation in the case of housing properties when you speak about air space, do you?

A. Yes, light and air.

Q. And so far as you can see the existence of the gas plant here did not have any depressing effect on the

valuation of the property on the south side of 41st Street or the north side of 42nd Street?

A. Not at these points.

Q. Did you consider, in making your valuation of this Block 1089, Lot 1, the fact that it was used formerly for gas-making purposes, that the plant was still there?

Mr. Ransom: I object to the question.

The Master: It is cross-examination. I will allow it.

Mr. Ransom: He says formerly used for gas
22355 making purposes.

The Master: I don't care what he says, the witness knows the property and knows how he reached the conclusion.

A. I fixed the unit according to my idea of what that property would sell for under ordinary circumstances. I took into consideration the kind of improvement that the land was fitted for, what the return could be, and whether the stability of the return would remain, and I fixed my basis upon that unit after considering a number of sales throughout the district, talking and exchanging views with real estate brokers, with owners of property, with tenants, consulting the
22356 records of real estate mortgages, leases, loans by banks and trust companies—all those elements I took into consideration, and at the same time the character of the neighborhood, informing my opinion on the unit that I used on any piece of property I assess.

Q. In connection with the unit you used in regard to the land of the company here on this block, were you influenced by the fact that it was connected with a gas company?

A. None whatever, any more than you are.

Q. Then the existence of these buildings there on it, and parts of buildings, did not influence your view as to the value of the land one way or the other?

A. It did not, I placed my value on the improvements as they were.

Q. You spoke about sales. Have there been made sales in this immediate neighborhood in the past five or ten years?

A. Quite a number.

Q. Were they foreclosure sales?

A. I will tell you the conditions.

Q. I do not want to go into detail on it, Mr. Tracey.

A. I would not give you foreclosure sales, outside the value of a piece of property, because it is no criterion of value. I take it under consideration as an 22358
element, though, if I am considering what the value of a piece of property is. I will take all those elements and consider them, and after I consider them and digest them I will fix my opinion of the value.

By the Master:

Q. There were a number of private sales, were there, Mr. Tracey?

A. There were a number of private sales.

Q. You have a number of long sheets of paper with all sorts of records of sales on them?

A. I have.

Q. Of all kinds?

A. I have. 22359

The Master: Go ahead, Mr. O'Brien.

By Mr. O'Brien:

Q. Taking the last three or four years, have there been any sales in that neighborhood?

A. I will give you the dates of all of those.

Q. Have there been any sales in that neighborhood?

A. Yes, sir.

The Master: Just answer the question. In the last three or four years?

The Witness: Yes.

22360 John F. Tracey, Cross.

Q. Of very large plots?

A. Not as large as this, but 25 feet, 50 feet, 75 feet Some were 16 feet 8 inches and some 20.

Q. What sales particularly influenced your judgment as to the value of this property?

The Master: No, this witness has in his hand, as I look at it, probably six or seven long sheets, and if he has to read all of that as an answer to this question we will not get through.

Mr. O'Brien: I said particularly.

By the Master:

22361 Q. Was there any particular sale, among all of these, that influenced you?

A. No.

Q. But all of them?

A. I took all of those sales into consideration in order to arrive at a unit value as to the whole district.

The Master: Mr. O'Brien, if this witness were an ordinary paid expert produced by the Gas Company to testify to an expert value, I should give you a much greater range on cross-examination; but as this witness is a public official called to testify to what he valued the property at for assessing purposes, I am inclined to limit your

22362 cross-examination more closely. I will not permit the witness to spend the time necessary to give you all the sales and transactions that he considered.

Mr. O'Brien: I asked him about those that particularly influenced his mind.

The Master: If he can say that any one or two or three sales particularly influenced his mind I will let him answer.

The Witness: The sales throughout the whole district and conversations I held with real estate brokers.

Q. Were there any particular sales, Mr. Tracey?

A. None that fixed my unit on this particular piece. I went from block to block and fixed my prices and considered the sales that had been made in this district prior to my making the assessments.

By Mr. O'Brien:

Q. You have adopted the same figures that your predecessors did on this property?

A. I considered it.

Q. Is yours the same as theirs?

A. I do not know what his figures were.

Q. Is it the same as that for the previous year? 22364

A. I do not know, I can tell you as far as the total is concerned, but not as to the land. This is not an official record (indicating book), but is only a memorandum book, and is called a Field Book.

The Master: Just a moment, Mr. Tracey; I am trying to let you go as quickly as possible, if you will follow my instructions.

The Witness: All right.

The Master: Can you tell Mr. O'Brien certainly and definitely what your predecessor assessed this same property for the previous year?

The Witness: I cannot swear to that book. That is not an official record. 22365

The Master: You have answered it.

Q. Does that refresh your memory, that book you have just put your hand on, and enable you to testify as to what your predecessor, your immediate predecessor, placed as the valuation?

A. This book was subject to so many changes, and as I say, it is only a memorandum book that the deputy carries in the field.

By the Master:

Q. Let us cut it short It undoubtedly is the fact in some instances at least your figures were the same as your predecessor's?

22366 John F. Tracey, Cross.

A. Full value, on the total value.

Q. As to unit values?

A. As to the total value.

Q. I mean as to the units.

A. This book is for one year, for land, while it is for six years for totals.

Q. How about the previous year for land?

A. I will see if I can get it for you.

Q. Did you appraise it the previous year?

A. No, sir.

Q. It will take some time to check up each one of
22367 these to get the land values, will it not?

A. To be sure.

Q. If your figures are the same as your predecessor's, is it because your predecessor made that figure that you reached the same figure?

A. No.

The Master: That is what Mr. O'Brien is getting at.

By Mr. O'Brien:

Q. You are influenced by what your colleagues did the year before?

A. No, I am not influenced by it, Mr. O'Brien. I take them under consideration as elements.

22368 Q. Yes, it is an element that you consider?

A. All elements.

Q. And you do not always discard it?

A. Not if I find it correct.

The Master: If this man were a paid expert, why of course, you ought to cross-examine him to the limit.

Mr. O'Brien: All we want on the record, your Honor, is the truth as I said before. The bare truth is all we are seeking.

The Master: This man has no interest in the litigation. He appraised the property, and when

he appraised the property for taxing purposes he anticipated if he got it too high the Gas Company was going to complain and if he got it too low his superiors would complain. The city needs the money and has needed it for some years.

Q. Have you taken the assessments for the last two or three years to see whether or not the Tax Commissioners did not jack up the price on this, in the last two or three years—I mean in the last three years?

A. I do not know anything about the actions of the Tax Commission. I can only answer for myself. 22370

Q. You do not know what they did under Mr. Purdy as to these properties, do you?

A. I do not. I was located in Queens County at that time.

Q. Were you then in Queens?

A. I was.

Q. And this was an odd year that brought you back?

The Master: He is back to Queens.

A. I was back to Manhattan and then back to Queens. They needed a good man out there, there was so much building going on, so they selected me.

Q. Mr. Tracey, this was an isolated year, then, and 22371 you operated in one single section, in the territory on the west side?

Mr. Ransom: Objected to.

The Master: Objection sustained. The record speaks for itself.

Q. Had you ever been in that particular district before as an assessor?

A. Yes.

The Master: Yes, he said ten years ago.

Q. You use the same units of value on 44th and 45th Streets, do you, with regard to the company's

22372 John F. Tracey, Cross.

property, as you did as to the property across the street from it?

A. I did.

The Master: I shall limit the cross-examination here. I do not think that is useful.

Mr. O'Brien: Will you allow the answer to stand?

The Master: Did he give an answer?

The Witness: I gave an answer, yes, I did.

The Master: All right, I will let it stand.

Q. And as to the influence that may have swayed
22373 your judgment, were you moved by the fact that this property on Forty-fourth Street and Forty-fifth Street was used for gas purposes?

Mr. Ransom: Objected to.

The Master: Objection sustained. I think I will rule that the witness has been sufficiently cross-examined. He can leave the stand. I am going to arbitrarily stop the cross-examination and take my chances.

Mr. O'Brien: I will note an exception to your Honor's ruling.

The Master: You may go, Mr. Tracey.

The Witness: I am willing to answer any ques-
22374 tions.

The Master: No, I think you have been sufficiently cross-examined.

Mr. O'Brien: Your Honor, I do not intend to traverse the ground gone over by Mr. Chambers, but there are matters that I want to put on the record in connection with the neighborhood, so we will know just how much reliance to place upon the assessments of the witness.

The Master: No, I think we have had enough.

Mr. O'Brien: I note an exception to your Honor's ruling.

JAMES J. T. JUDGE, a witness called for the complainant, was duly sworn, and testified as follows:

DIRECT-EXAMINATION BY MR. RANSOM:

Q. Where do you live?

A. 2970 Decatur Avenue.

Q. What is your position with the City of New York?

A. Deputy tax commissioner.

Q. How long have you been such?

A. Nine years.

Q. Have you ever been in the real estate business? 22376

A. I have.

Q. And bought and sold real estate?

A. I have.

Q. For your own account and for others?

A. My own account and for others, yes.

Q. Did you take a civil service examination?

A. I did.

Q. That is a competitive examination was held?

A. Yes, sir.

Q. As a result of that examination your name came upon an eligible list?

A. I was first on the list.

Q. And subsequent to that you were appointed and took the usual oath of office as Deputy Tax Commissioner? 22377

A. Yes, sir.

Q. And you have since served as such?

A. I have.

Q. In the year 1918, prior to October 1st, were you as Deputy Tax Commissioner assigned to any particular district?

A. I was.

Q. And did that district include Section 11, Blocks 2782 to 3245?

A. It did.

Q. One of the parcels that was in that district was Block No. 3236, located at West Fordham Road, Sedgwick Avenue and Harlem River Terrace?

A. That is right.

Q. In the month of September, or before October 1st, 1918, did you make up and furnish to the Tax Board a detailed statement under oath, or report, showing all the taxable property assigned to you?

A. I did.

Q. That is, all the real estate?

A. I did.

22379 Q. And you had personally examined each of the parcels of property, including this Block 3236?

A. Yes.

Q. And your report so showed?

A. Yes, sir.

Q. In this report you showed in the first column the sum for which in your judgment each separately assessed parcel of real estate would sell under ordinary circumstances if it were wholly unimproved, and in the second column you showed the value with improvements?

A. Yes, sir.

Q. And before you furnished to the Tax Board
22380 this annual report or statement, did you swear to it by an oath in the usual form before a Justice of the Supreme Court?

A. I did.

Q. Directing your attention to this Block 3236, Lot 1, at West Fordham Road, Sedgwick Avenue and Harlem River Terrace, what in your opinion was, on October 1, 1918, the sum for which this parcel of land would sell under ordinary circumstances if it were wholly unimproved?

The Master: I take it that you are now calling for the figure that he reported under oath?

Mr. Ransom: Yes.

A. $200,000.

Q. And that was the figure which you reported under oath?

A. It was; yes, sir.

Mr. O'Brien: Your Honor, I would like to have the record contain the objections I made to the other assessments.

The Master: Yes, this testimony is taken subject to the same objection that was interposed to the testimony of the other Deputy Tax Commissioners.

Mr. O'Brien: And the exception. 22382

The Master: On all the same grounds.

Mr. O'Brien: You will allow the record the same as in Mr. Tracey's examination?

The Master: Yes.

Mr. O'Brien: And that of Mr. Herman J. Levy?

The Master: Well, you did make your objections to that as we went along.

Q. How many years were you on that district?

A. This is my fifth year. Five years.

Mr. Ransom: You may cross-examine.

The Master: I did not ask before, Mr. Clark, whether you had anything to ask. I assumed you had not. 22383

Mr. Clark: No, I did not.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Look at this Sheet 18 of Exhibit 178. Is that the same in dimensions as this schedule (handing witness)?

A. Yes, those are the same.

Q. Clear around?

A. Practically, yes.

Q. Was that the full value, that $200,000 or just—

A. (Interposing.) That is the full value.

Q. How did you arrive at your assessed valuation?

A. Why, the property contains approximately 180 lots. There were 56 lots on Fordham Landing Road and Sedgwick Avenue that were assessed for $2,000 a piece or $112,000.

The Master: You mean 25 100-foot lots?

The Witness: 25 x 100, yes. There were 54 lots on Harlem River Terrace that were assessed at approximately $800 a lot, or $43,200. There were eighty interior lots assessed for $400 or $32,000, and allowing approximately 10 per cent for plottage brings the total up to $200,000.

22385

Q. Did you allow anything for corners?

A. Why, no. It is practically all in one plot; there is no corner there.

Q. The first lots that you mentioned, 180, where were those?

A. They were on the Landing Road and on Sedgwick Avenue.

The Master: What road is that?

The Witness: The Landing Road—Fordham Landing Road.

Mr. Chambers: Fordham Road and Sedgwick Avenue.

Q. How much for those 180 lots?

22386

A. Why, $200,000 for the 180 lots.

Q. That is the whole plot?

A. The whole plot, yes.

By the Master:

Q. How many lots did you say were along Fordham Landing Road?

A. And Sedgwick Avenue, 54 lots approximately.

Q. At what basis?

A. $2,000 a lot.

Q. $2,000 you said, yes. Have you given your 180 lots? Give it to us slowly again so Mr. Maltbie can get it.

A. 56 lots at $2,000 a lot. They are fronting on Fordham Landing Road.

By Mr. Chambers:

Q. Go slow. 56 at $2,000 there on Fordham Road and Sedgwick Avenue?

A. Fordham Road and Sedgwick Avenue.

The Master: Then you had forty odd lots?

The Witness: 54 at $800. They run along Harlem River Terrace. Then there were 80 interior lots at $400 a lot.

The Master: That is $32,000.

Q. That ought to give $187,200? 22388

A. That is right, sir.

Q. What is the rest?

A. It is approximately ten per cent for plottage. It was not exactly 10 per cent. I rounded out the figure.

Q. You rounded it out; it was a little over and you made it $200,000?

A. That is right.

Q. Was there any difference in the value of these lots on the southerly end of the property? Were these lots here on the northeasterly end of the same value as the other ones?

A. Why, no nearer Fordham Road they are better 22389
lots, of course. Fordham Manor Road are better lots.

Q. If we cut this off here about the middle (indicating), these lots on the northeasterly end of the plot, how much difference would there be between them?

A. Only ten per cent.

Q. Less valuable than the others?

A. Yes, sir.

Cross-examination by Mr. O'Brien:

Q. Mr. Judge, were you influenced in placing the valuation you gave upon this property by any sales made there in the last six years?

22390 James J. T. Judge, Cross

A. Why, yes, there was a sale directly opposite the property that sold for $30,000, it was assessed for $20,300, practically one hundred per cent. That was this year. That sale occurred the spring of this year.

Q. Well, that was property up on the hill, wasn't it?

A. No, directly opposite, the same condition exactly.

Q. You mean opposite the entrance to this property? A. Yes.

Q. Down on the hillside?

A. Down on the side of the hill.

22391 Q. What is it used for?

A. Why, there is an ice plant now in course of construction on the plot. Mr. Albert Schwartzler was the buyer.

Q. Where did you get the consideration from?

A. Mr. Schwartzler himself.

Q. Any other sales? I mean, were you influenced by any of them?

A. Why yes, I took the sales in the section, in the neighborhood naturally. I have got them right here. These are within ten blocks. Block 3149, Lot 828, for $5,500, sold for $5,500.

Q. That was about where?

22392 A. Directly in the radius of ten blocks of this gas plant.

Q. A radius of ten blocks would bring us away up on top of the hill. This property is on the side of a steep hill, is it not?

A. Well, we will stay right down to the bottom of the hill, stay right on Harlem River Terrace.

Q. Stay down along the railroad?

A. Along the railroad on Harlem River Terrace. We have a sale down there about three months ago, four lots were sold for $1,000 apiece, $4,000.

Q. City lots?

A. City lots, yes.

Q. Private sale?

A. Private sale. We have another lot, another sale—

Q. How far away was that?

A. That is right opposite.

Q. Between Harlem River Terrace and the railroad?

A. Harlem River Terrace and the railroad, south of the—

Q. With a frontage on the railroad and possibilities of a siding?

A. No, no frontage on the railroad, but a frontage 22394
on Harlem River Terrace.

Q. Well, it backed up on the railroad, did it?

A. No, it did not back up on the railroad.

Q. Any other sales there?

A. Yes, in Cedar Avenue, Mr. Diamond bought four lots for $1,250 a lot. That is the next block east of Harlem River Terrace, about 200 feet south of Fordham Landing Road.

Q. The topography is different over here. They do not have a sloping hill there?

A. The property is practically the same. It is right on the side of the hill, right opposite this property.

Q. Did you give this property, that part of it that 22395
is hilly and on the sharp incline of the hill, the same value you put on the properties that are on the level?

A. Oh, no; that is why I differentiated between $2,000 and $800 a lot.

The Master: You ran down to $400 a lot?

The Witness: Yes.

Q. Isn't it a fact that if you were to start to build apartment houses or shops abutting upon Fordham Road and Sedwick Avenue, you would have to build foundations running down to the level of Harlem River Terrace?

A. That is admitted.

Q. There would be a large amount of money would have to be spent there?

A. Not to Harlem River Terrace.

Q. I say—well, almost to the level of it?

A. Not as bad as that, though.

Q. Well, there would be perhaps what would constitute three or four stories of foundations would have to be built?

A. No, not as bad as that. Oh, no.

Q. Well, a depth of forty feet at least, you would have to get a foundation down forty feet, would you

22397 not?

A. I do not think so. I think if you went twenty feet, you would be going quite a depth.

The Master: You had all those things in mind any how?

The Witness: I had all those things in mind.

The Master: The difficulties of construction there, the topography of the land.

The Witness: Yes. I was formerly chief inspector of buildings, tenement house department, and I took all those things into consideration in making this assessment.

The Master: In the Bronx?

22398 The Witness: In the Bronx.

Q. You considered while it would not be used for tenement house purposes, it might be used for factory sites?

A. Well, it could be used for either. Either factory sites or tenement house purposes. As a matter of fact, right opposite, directly opposite, there are flat houses where they are getting $10, $12 and $15 a room.

Q. Now, you are talking about right opposite; you mean up on top of the hill at Sedgwick Avenue?

A. Well, part of this property is up on the hill, too.

Q. I know it begins at Sedgwick Avenue and shoots down?

A. Exactly. The stuff on the top of the hill I assessed at $2,000.

Q. And within fifty feet it drops about 75 feet, doesn't it?

A. No, I won't say as much as that.

Q. Isn't Sedgwick Avenue easily 75 feet above the level of Harlem River Terrace?

A. Yes, it slopes down. That is right.

The Master: How near is this property to the subway or elevated connections? 22400

The Witness: It is only about four blocks.

The Master: From what?

The Witness: From the 207th Street subway station. You walk over the bridge, over the river.

Q. You mean across into Manhattan?

A. Into Manhattan, yes. It is a subway station; what is the difference?

Mr. Ransom: It is not far from the Bronx subway, either.

Q. No, but you don't call the Harlem River a block?

A. No, I said four blocks, about four blocks.

Q. From the other side of the bridge. Of course, the river is— 22401

The Master: In distance, what would you say, fifteen or sixteen hundred feet across there?

The Witness: It may be two thousand feet.

The Master: A couple of thousand feet from the subway station?

Mr. Ransom: Nearer than that to the Webster Avenue subway station.

Q. You would have to walk about three blocks to the bridge, and cross the bridge, and walk how much from that?

A. It is not three blocks to the bridge. You are right practically at the bridge.

By the Master:

Q. At 207th Street west side subway station, you are right at the entrance or nearly at the entrance of the bridge that takes you across the river?

A. That is right.

Q. And at the other side of the river, how far away is this property?

A. It is only about a block. I can show you right here (indicating on map). Here is that property here,
22403 and here is the bridge and here is your river, and here is your subway.

Q. Is there any trolley car running across that bridge?

A. Yes, a trolley car crosses the bridge.

Q. Then you could ride right from the subway station to this property?

A. Exactly.

By Mr. O'Brien:

Q. Have you given that the same valuation, Mr. Judge, that you would give it if the gas plant was not there?

A. No. That was one of the elements of value we
22404 gave, the utility of the site. To illustrate, lots generally there in Fordham Road are assessed—well, assessed for six and seven and eight hundred dollars a lot, and further east on Fordham Road where they are better, they are assessed for $20,000 or $25,000.

Q. Well, then, does plottage represent this increased value that you gave the land because it is used by a gas plant?

A. No. The mere fact that that parcel is in one ownership, there is no question about it as to its value. It would not make any difference what it is used for. It adds to its value. It is worth ten per

cent more in value than if it is in separate parcels. If you went out to assemble a plot like that, you would find out it would cost you a whole lot more.

Q. What?

A. If you went out to assemble it you would find it cost you a whole lot more than if it were in one ownership. That is the practical side of it.

Q. Well, there is a great deal of territory around the northern part of the Bronx where you do not have to assemble it, it is right there; isn't that a fact?

A. I don't know about this particular section, I would not say that.

22406

Q. Well, I mean around in the northern part of the Bronx, in the Wakefield section and other sections—Williams Bridge?

The Master: If you went down to Montauk Point you would have a lot of land down there that you would not have to assemble, wouldn't you?

Mr. O'Brien: Your Honor, you are called upon to decide in this case whether and when land has become so valuable.

The Master: That doesn't interest Mr. Judge. He wants to get away.

Q. Is there any other sale that you speak of as significant of the trend of the market, or as having influenced your judgment in the assessment you have made of this particular plot? 22407

A. Block 3232, Lot 70 is assessed for $12,000, and was sold for $11,685; Mr. John Eustes was the grantor and Edith McCracken was the grantee; Block 3240, Lot 11 was assessed for—

Q. What was the size of that lot?

A. Why, it contained approximately eleven lots on Sedgwick Avenue right below the gas plant. Then this plot opposite—

Q. Was it south of Fordham Road?

A. South of Fordham Road, yes.

Q. How far south?

A. Why, it is about 200 feet south of Fordham Road.

Q. Well, you have a different layout there, so far as the topography goes?

A. No, the topography is the same; Sedgwick Avenue slopes down.

Q. But the level of Sedgwick Avenue down there is much lower than the level—

22409 A. Oh, no, Sedgwick Avenue runs the same, it is practically on the same level. No, the conditions are similar, exactly the same.

The Master: Sedgwick Avenue is on a high level, and it drops down to the terrace?

The Witness: That is just the point, yes. Then on Webb Avenue, 3219, Lot 86, sold for $8,000, assessed for $8,000; Block 3233, Lot 61 sold for $4,000, was—sold for $3,800, and assessed for $4,000. There is a total of five sales that were assessed in the total for $57,200, and they brought at the sale $57,485, a difference of $285 in five sales.

22410 The Master: Were those private sales?

The Witness: Private sales.

The Master: Running how far back?

The Witness: In the last two years—since 1917.

The Master: I think we have had enough of Mr. Judge, don't you, Mr. O'Brien?

Mr. O'Brien: Yes.

The Master: Do you want anything, Mr. Clark?

Mr. Clark: No, I have nothing.

(Witness excused.)

Mr. Ransom: Clearing up this real estate, on page 2671 and 2672 of the record there was offered in evidence and received Exhibits 220, 221 and 222, which were the tax maps, and I undertook at that time to indicate the prices in those exhibits to which I directed attention. On checking it over I find that there were certain classes that were not indicated and which have been testified about, and I want the record to show that those additional blocks and lots were identified in those exhibits. I have it here in tabulated form, or I can read it. It is as follows:

Block	Lot	Tax Map Sec. & Vol.	Exhibit No.	Page of Record
239	1 & 5	Sec. 1. Vol. 3	222	Page 2672
982	13	" 3 " 4	221	" 2671
985	7-19-20	" 3 " 4	221	" 2671
951	35	" 3 " 4	221	" 2671
952	7-29-30-35	" 3 " 4	221	" 2671
953	1	" 3 " 4	221	" 2671
978	5-6	" 3 " 4	221	" 2671
987	37	" 3 " 4	221	" 2671
979	1	" 3 " 4	221	" 2671
1457	6	" 5 " 4	220	" 2671

Adjourned to Wednesday, November 26, 1919, at 9:15 A. M.

Last Complainant's Exhibit 376.
Last Defendants' Exhibit AA24.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, etc., *et al.* 22417

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 26, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 22418
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE resumed.

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

Q. When we left off, Mr. Teele, I called your attention to page 24 of Exhibit 367, and read to you—

The Master: That was not the page or the exhibit at all that you were reading from. You were reading from Exhibit 376, journal entries that were on 376 but were not on 367.

Q. Was your attention called to that entry in the ledger? 22419

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Why was it that you put those items on page 21 of Exhibit 376 as having been withdrawn on those dates, 1906, 1907, 1909, when you did not put them in, all of them, on Exhibit 367?

Mr. Ransom: Objected to.

The Master: I will allow that. I will take the witness's explanation, and that will finish that.

A. For the reason, as I have stated before, that the

items that I omitted in making the Schedule 367 were those items that were credited to plant account after 1906, but which upon inquiry I found were not contained in the appraisal of property made by Mayer.

Q. Where did you get your information from, that item for 1909, rearranging apparatus—that it was money spent before the Rowland appraisal?

The Master: Is that on Exhibit 367?

Mr. Chambers: No.

The Master: It is not on 367?

Mr. Chambers: No.

22421 The Master: The question will not be allowed.

Mr. Chambers: Exception.

Q. Why didn't you include that? Where did you get your information from, that that item, rearranging apparatus in 1909, found on Exhibit 376 but not found on Exhibit 367, was money expended before the Rowland appraisal?

Mr. Ransom: Objected to.

The Master: That is not the situation. Objection sustained.

Q. Before the Mayer appraisal?

The Master: Objection sustained. That is not the point at all. The point is it was not in-

22422 cluded in the Mayer appraisal.

Mr. Chambers: Where did he get the information from?

The Master: Why, he looked at the Mayer appraisal. Objection sustained.

Mr. Chambers: I am not asking that.

Q. How did you know that the expenditures were made after 1905?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Where did you get that information from?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did you have any information about it?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. How about the building and apparatus dismantled for new tanks and holder—

The Master: Is that on 367?

Mr. Chambers: No.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Where did you get your information from that that building and apparatus—that the money was not expended after the Rowland appraisal or the Mayer court valuation? 22424

The Master: Same ruling.

Mr. Chambers: Exception. Now, take new tanks, 1907, new tank and holder billed to the Standard Gas Light Company, why was it you included some of that and excluded other items in your Exhibit 367?

The Witness: I have included that expenditure which was made subsequent to Decemebr 31, 1905, because it was subsequently billed to the Standard Gas Light Company; and I have included in here the items not included in the Mayer appraisal because of the expenditure having been made after the Mayer appraisal. Having included the expenditure on the one side I had to include the withdrawal of it on the other side. 22425

Q. You found so far as that new tank and holder was concerned, you found the various expenditures which you have included in 376, and which you have included in 367—it must have been made prior to 1905, because you found it in the 1905 ledger?

The Master: The question is not allowed.

Mr. Chambers: Exception.

A. I did not say so.

Q. Well, look on page 21, what does that "1905" mean there?

The Master: Question not allowed.

Mr. Chambers: Exception.

Q. Take the item, rearranging apparatus, the item for $14,450.30—you found that expenditure in the 1906 ledger, did you not?

The Master: That is not on 367?

Mr. Chambers: No.

The Master: Question not allowed.

Mr. Chambers: Exception.

22427 Q. Where did you get your information from that that expenditure was not made in 1906?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Take page 25 of Exhibit 367, the item for 1906, two Scotch marine boilers with steel stacks, scrapped 1907, ledger folio 11, $6,162.76. Was your attention called to this entry in the operating journal at folio 457, 1916: "For the original cost of two 60 h. p. Sotch marine boilers with steel stacks, dismantled at the West 65th Street station during 1914, and scrapped during the year 1916, as per report from the engineer of construction on file"?

22428 The Master: Do you remember that entry, Mr. Teele?

The Witness: I don't know whether Mr. Chambers is reading part of an entry, or whether he is reading correctly the entry he is referring to. I don't know what entry he is referring to.

Q. Now, the 1916 does not relate to the date when the boilers were scrapped, does it?

A. 1916 relates to the year in which the two boilers were withdrawn from the plant account.

Q. It does not relate then to the date when the boilers were dismantled as shown by this entry, does it?

The Master: The question is not allowed. We have had that explanation as to other items a dozen times.

Mr. Chambers: Is this going to be one of the days when your Honor will not allow us to cross-examine?

The Master: I am ruling on your question, Mr. Chambers.

Mr. Chambers: It has not been covered at all as to this item.

The Master: The question that you have just asked, as to what his figures mean, has been cov- 22430
ered a dozen times.

Mr. Chambers: I take an exception. I think it has not.

The Master: I say that his explanation of what his figures mean there, 1916-1917 or 1914, whatever it may be, refers to the date when it was withdrawn from the books, and not the date when it was disused, or scrapped or something else. That appears a dozen times.

Mr. O'Brien: If your Honor please—

The Master: I didn't ask Mr. O'Brien to say a word, and there is nothing for you to say.

Mr. Chambers: It does not appear, if the 22431
Court please, anywhere, any information yet in the record, until I just asked it, that this 1916 is not the date when the boilers were dismantled.

The Master: Next question.

Mr. Chambers: Exception.

Mr. O'Brien: Your Honor, I take an exception to your ruling on the ground—

The Master: I don't want the grounds. You have an exception.

Mr. O'Brien: I would remind your Honor that

the witness mixed up a page in the ledger yesterday—

The Master: I don't want to be reminded of yesterday. You have taken your exception.

Q. On page 28 of Exhibit 367, the item, 1910, preliminary expense charged to renewals and contingencies, why did you include the item for preliminary work on the Kingsbridge station noted there, as plant withdrawn from service?

A. Because the expenditure is shown in the addition and subsequently written out of the account, and
22433 I, therefore, had to show it as withdrawal.

Q. Preliminary work could not be a withdrawal of anything, could it?

A. I have stated the reason why.

Q. Well, I am asking you. It says preliminary work. Now, that could not be any machinery or plant withdrawn.

A. The two schedules furnished to you of additions and withdrawals represent the debit and credit side of the plant account. This amount having been included in the original additions and subsequently appearing on the credit side of the account on the books, in order that the schedules should be correct
22434 I had to include it here.

Mr. Chambers: I am asking you if preliminary work could by any possibility be plant withdrawn from service.

Mr. Ransom: I object to that. If the Attorney General says it could not be withdrawn, let it stay in.

The Master: Objection sustained.

Q. On page 29 you have $202,035.46, of which $163,999.76, you say, represents services of engineers, etc., billed to other companies. Now, how did you work that up?

A. That is not an accurate statement. That is only a part of what I say is billed to other companies. $163,999.76 is billed to other companies, and $16,153.72 is billed to other companies, and $20,968.46 is billed to other companies. The whole amount of $202,035.46 is billed to other companies with the exception of $913.52.

The Master: The two blueprint items?

The Witness: Yes.

Q. How did you work that out as plant withdrawn from service, the service of engineers billed to other companies?

22436

A. I have before stated that the total amount of the expenditure of construction engineering supærintendence appearing in the schedule of additions, the amount or proportion of it that was billed to other companies is shown in this credit schedule which was entitled "Plant Withdrawn from Service"—plant charges withdrawn from this account representing construction.

The Master: Isn't that favorable to the defendants to have that withdrawn from service?

Mr. O'Brien: It may not be, your Honor.

The Master: How does it affect the result?

Mr. Ransom: If it was left in, it would be added to our capital account. 22437

Mr. Maltbie: The answer is, if that is taken out, it ought to be taken out in the year in which the work was done, not in some other year.

The Master: Does that make a difference?

Mr. Maltbie: Yes. The probability is from the looks of the case that he is going to treat withdrawals in the years in which they are withdrawn here. Now, if they were withdrawn in earlier years, it reduces the captial that has to be carried in this period from 1906 to 1919.

The Master: Well, go ahead. The point of your inquiry now is that this engineering item that was withdrawn from service that year might cover a series of years back of that?

Mr. Chambers: Yes, and changes the capital from year to year.

Mr. Ransom: It was not withdrawn until that year.

The Master: Mr. Chambers is entitled to have the fact on the record as the basis for an argument that he presents. I do not know just how
22439 it will work out, but I want Mr. Teele to tell us on the record.

Q. Does it cover service for 1906 only, or don't you know?

A. It does not.

Q. It covers services spread over previous years?

A. It covers services from—

The Master: From 1906 on, didn't it?

The Witness: From 1910 on, your Honor, I think.

The Master: That is near enough for your purpose, isn't it, good enough for your argument that it covers a series of years back of it?

22440 Mr. Ransom: We might as well have the year. He said 1910.

Q. How about the charge to 1917 and 1918, do they cover services extending back?

A. They do not cover exactly 1917. There is an overlapping period there through all these years in which these credits were made to construction account.

The Master: What items apply only to the year in which stated, and which apply to the prior years?

The Witness: I cannot tell, your Honor, without my analysis before me, which unfor-

tunately is not here this morning. In 1916 this credit was made to this account and charges made to other companies covering a period of expenditures from 1910 to 1916, I think to June 30, 1916, and in 1917 they distributed the amount of expenditure running from, I think, July 1, 1917, to December 31, 1917, but I won't attempt to give you the dates from memory.

The Master: All right.

The Witness: I can get that information for you in a very short time, because I have the whole thing analyzed showing exactly what dates 22442
it applies to.

The Master: I think there is enough on the record.

Mr. O'Brien: I will have some questions about that myself when I come to it.

The Master: I don't think you will. I think your cross-examination is ended.

Q. Did you say that your last item, services of engineers billed to other companies 1918, was for 1917?

A. My recollection is that there is a part of 1917 in it, but I do not want to state as to the exact dates now.

Q. Now, look at Exhibit 376, page 26, and see if 22443
you can tell me that that last item on page 367, $20,968.45 is for services of engineers in 1917, just as I have asked you, all of it?

The Master: That is the 1918 charge was for 1917 services?

Mr. Chambers: Yes.

The Witness: I will not change my answer that I will not give the dates covered by these credits without reference to my own papers.

Q. But in that last exhibit I have shown you, it seems to be?

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The Master: In 376 you refer to the fact that the 1918 charge was for 1917?

The Witness: It says for the year 1917 there, but I am not sure that that covered only the year 1917, that there was not some overlapping period in it.

The Master: Mr. Chambers, I think you have gone far enough to show that the items charged for 1916, 1917 and 1918, surely as to 1916, do not refer entirely to the year 1916, and I think you have indicated enough to show that the other

22445 items do not necessarily mean the years in which they are charged. Now, have you anything on 366?

Mr. Chambers: Yes.

Q. Have you 366 before you?

A. Yes.

Q. First, I call your attention to the item of renewals and replacements?

A. Yes.

Q. They run along renewals and replacements until you come to the year 1914. You will notice there that there is a big jump in 1913, and then in 1915 there is a drop. Do you see that?

22446 A. Yes.

Q. In 1914, it is $1,338,582.14?

A. Yes.

Mr. Ransom: I raise the question whether you want to go into that detail.

The Master: Don't raise any question.

Q. I will ask you in 1914, the year I am talking about, what was the title of that account?

The Master: What is the point of your inquiry, Mr. Chambers?

Mr. Chambers: I want to find out just exactly how that jumped up, and what is in it.

The Master: Have you made any inquiry about it before this cross-examination?

Mr. Chambers: Surely; I have been up there at your direction, I have been up all night with these men.

The Master: What is the point you want to bring out?

Mr. O'Brien: Your Honor, right on this point—

The Master: I am asking Mr. Chambers something.

Mr. O'Brien: I am protecting my own rights. 22448

The Master: I want you to stop when I am talking to Mr. Chambers.

Mr. Chambers: I want to find out what list of property he included as having been withdrawn under that item in that year, and some other information. I want to find out what he has included in it.

The Master: Didn't you find that out before this cross-examination started?

Mr. Chambers: No. I could not find it out; they could not give it to me.

The Master: He could not give it to you?

Mr. Chambers: No.

The Master: Well, then, ask him that. 22449

Mr. Chambers: That is what I am asking.

The Witness: He never did ask before.

Mr. Chambers: I did not that particular one, no, but I asked you generally about these renewals and replacements.

The Master: What is it you want to spread on the record that he could not give you?

Mr. Ransom: There is not anything he could not give him.

Mr. Chambers: First I want to find out what title that is under.

Mr. Ransom: Objected to as incompetent. The books speak for themselves.

The Master: I won't allow the question.

Mr. Chambers: It is not under that title.

The Master: I won't allow that question.

Mr. Chambers: I will take an exception. You can shut us out, of course, and make us sit down.

Mr. O'Brien: I want to say right here—

The Master: Mr. O'Brien, will you understand that I am going to insist on conducting this trial, and when I say that you must not interrupt
22451 until your time comes, that I won't have you do so?

Mr. O'Brien: I will abide by the ruling of the Court, but I assumed that you and Mr. Chambers had both stopped talking and had finished your statements.

The Master: Mr. Chambers has the floor. There is no justification for Mr. O'Brien saying a word until I ask him what he wants to say. Now, let us understand that.

Mr. O'Brien: Well, when I get the chance I would like to take an exception and state to your Honor that Mr. Chambers having finished,
22452 that to the ruling which is now implied and which will affect, I assume, all of the defendants, I respectfully except. The ruling emitted and the inquiry put by the Master to counsel, the Deputy Attorney General, would seem to indicate that the defendants must come in here and bring up only such matters as they say they controvert, and it is that ruling that I desire to take exception to, and if I may be permitted at this time, I want to say to your Honor that in reference to the comment that was made on this whole subject on November 20th—

The Master: Are you ready for another question, Mr. Chambers?

Mr. Chambers: Yes.

The Master: I let Mr. O'Brien talk while waiting for you, but I won't hear any further.

Mr. O'Brien: Let me finish.

The Master: No.

Mr. O'Brien: Well, I note an exception to your denial to let me make my protest and exception to the questions asked by the Master at this time on cross-examination.

The Master: Proceed. 22454

Q. Did that item of $1,338,582.14 represent merely what you found on the books under the title, "Renewal and contingency suspense"?

A. Mr. Moeran, will you give me my analysis of the charges of plant withdrawn from service?

The Master: Mr. Chambers, with reference to those other entries on 367, I asked Mr. Teele if he could get the information, and Mr. Teele asked Mr. Moeran to go to the telephone and get some information for him. I understand that has been handed to Mr. Teele.

The Witness: It has.

The Master: Can you now testify from your memorandum that has been handed to you as to this inquiry that Mr. Chambers made, and give him that information? 22455

The Witness: I can.

The Master: Let us have it.

Mr. Chambers: That is about that 1916?

The Master: The engineering and superintendence.

Mr. Chambers: How far back did it go?

The Master: Let us have the facts.

The Witness: The amounts credited in 1916,

22456 Arthur W. Teele, Cross.

covered expenditure from January 1, 1910, to July 31, 1916.

Q. You are speaking of Exhibit 367?

A. Yes.

The Master: Page 29, the item 1916 services of engineers billed to other companies, $163,000 odd. Now, the 1917 item of $16,153 covers what period?

The Witness: From August 1st, 1916, to December 31st, 1916.

The Master: And the 1918 item of $21,000 odd?

22457

The Witness: Covered 1917.

Mr. O'Brien: Is that the information he got from Mr. Moeran?

The Master: If you had listened to what I was saying, you would know the answer to your inquiry.

Q. There is nothing in there for 1918?

A. 1918 distribution is not made until 1919.

The Master: Mr. O'Brien notes an exception to the method pursued by Mr. Teele of refreshing his recollection.

Mr. O'Brien: And substituting for his testi-

22458

mony the testimony of—

The Master: That is all.

Mr. O'Brien: I call your attention to the fact that Mr. Moeran is now consulting with the witness.

The Master: You don't have to call my attention to it. I see it. Mr. Moeran is giving him some data that Mr. Teele called for.

Mr. O'Brien: He is talking with the witness.

The Master: Yes, he is talking with him with my permission.

Mr. O'Brien: I note an exception to your Honor's comment.

Q. Are you now able to answer the question?
A. The question was what?

The Master: Whether this item of $1,338,000 odd only included the items you found in renewals and contingency suspense account, or whether you took other items in?

The Witness: For 1918, let me have the adjustment sheets.

The Master: Haven't you got the data so you can say?

Mr. Chambers: Your Honor, you cannot do that. I went up there and I informed myself so I 22460
know just exactly what questions I want to ask. It cannot be done in the manner you have in mind at all. I went up there and I found out, I covered each one of these items, but I did not ask him particularly about this because I found out generally that I could not proceed here without having a regular cross-examination in the usual way.

The Master: What do you mean, a regular cross-examination.

Mr. Chambers: I mean it cannot be done in the manner that you have in mind, and protect our rights.

22461

The Master: What is a regular cross-examination?

Mr. Chambers: I want to have him tell us item by item, year by year, how he made this up, and what he used, and if he used the book figures, then let him say so, and that ends it.

The Master: Well, I will let him answer that question.

Mr. Chambers: You can shut me out—

The Master: I am going to shut you out again in a minute.

Mr. Chambers: But I do not think it is right or proper.

Mr. O'Brien: Your Honor will note an exception on my part to the Master taking—

The Master: You have taken an exception.

Mr. O'Brien: I am taking an exception now to your taking the examination of the witness in hand.

Mr. Chambers: I made careful notes, I did as the Court directed me against my will, to which I took an exception, but I did it and now I am
22463 convinced I have to cross-examine the witness.

The Master: What is the answer to that question? Mr. Teele, before you answer that question, was any inquiry made of you or your men for this information before this cross-examination started?

The Witness: No, sir.

The Master: I won't allow the question.

Mr. Chambers: Exception.

Mr. O'Brien: Note my exception, too.

Q. What was the title of that account in the books for 1913?

The Master: Same ruling.

22464 Mr. Chambers: Exception.

The Master: It is quite apparent to the Master that the Attorney General has not done as requested by the Master, familiarized himself—

Mr. Chambers: I did just that, and I take an exception. The Attorney General did just exactly what the Master told him to do.

The Master: The question is not allowed.

Mr. Chambers: I did ask it. He has not told you fully. I did ask him what title he kept that account under, what title it was under in the books for that year.

The Master: I will not permit any questions of this witness except such questions as Mr. Chambers and other counsel can indicate will bring out a point that they want to spread on the record. These questions should be asked in a leading form, as is proper in cross-examination. To illustrate, "Mr. Teele, did you not include items other than those in the account? Did you not include items of this class or exclude items of this class?" And all the rest of it. I will not permit this form of cross-examination.

Mr. Chambers: I take an exception. 22466

Mr. O'Brien: Then at this time will you permit me—

The Master: I will not permit you at this time to say anything, Mr. O'Brien, until Mr. Chambers is through.

Mr. O'Brien: He has taken an exception and I will take an exception, and—

The Master: That is all I will let you do.

Mr. O'Brien: In addition I will spread on the record—

The Master: No.

Mr. O'Brien: Will you permit me to spread on the record my objection in connection with your ruling? 22467

The Master: No.

Mr. O'Brien: I note an exception to your Honor's attitude and ruling.

The Master: Next question, Mr. Chambers.

Q. What was the title of the account which you set up in Exhibit 366, for 1906, that you found in the books, from which you took off the sum of $2,517.06 which you have entitled "Renewals and Replacements"?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Was the title set forth in the books as renewals and replacements?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. What was the title of the account set forth in the books for 1906?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. For 1907 what was the title of the account set forth in the books, under which you have put the item of $395,869.56?

22469 The Master: Same ruling.

Mr. Chambers: Exception.

Q. What was the title of the account in the books for 1908, wherein you set forth under renewals and replacements $455,246.77?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. What was the title to the account in the books, under which you set forth renewals and replacements, wherein you set up the sum of $364,028.05?

The Master: For what year?

Mr. Chambers: For 1909.

The Master: That is a repetition of the same question as to each year, is it not?

22470 Mr. Chambers: I am going to ask the question.

The Master: As to each year?

Mr. Chambers: I am going to sail right through.

The Master: The same question?

Mr. Chambers: It will be the same question as to each one of these years—the title of the account.

The Master: The Master rules out the question and directs counsel not to repeat that as to

the other years, that he is fully covered by the questions as to the previous years.

Mr. Chambers: Exception.

Q. In 1906 was not the title of this account which you have styled renewals and replacements a depreciation account?

The Master: That is allowed.

A. Yes.

The Master: That is what I have been trying to force you to do for half an hour.

Q. That account continued until when—1913, did it? 22472

A. 1906 to 1913.

Q. Why did you give it the title "Renewals and Replacements" when it was set up as a depreciation account?

A. To use the same titles which I have used in the 1918 statement I prepared.

Q. In 1914, 1915 and 1916 the same account was changed in the books to renewals and contingency suspense, was it not?

A. 1914, 1915 and 1916.

Q. I was right, was I not? In 1917 and 1918 it was changed again on the books to plant withdrawn from service suspense? 22473

A. Yes.

Q. And you carried it all the way though under this title renewals and replacements?

A. I did.

Q. When the company set it up in the books as plant withdrawn from service suspense in 1917 and 1918 they then included in it—did you find, that it was actually withdrawal of plant? Is that right?

A. What is that question again, please?

Q. When the company set it up as plant withdrawn from service suspense in 1917 and 1918 you found,

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did you not, that the company had included in it plant actually withdrawn?

A. The loss on plant actually withdrawn.

A. The loss on plant actually withdrawn.

A. That is what the whole account represents.

Q. Before that, for instance in 1914, it represented a contingency account; it was a contingency account, was it?

Mr. Ransom: I object to the question.

The Master: No, I am going to allow that.

Mr. Ransom: What?

22475 The Master: I am going to allow it.

Mr. Ransom: The resolution is in evidence.

The Master: No, I am going to allow that; it is proper. Mr. Chambers is now doing what I have been trying to get him to do; he is getting to the facts.

Q. It did not represent plant withdrawn?

A. It represented loss on plant withdrawn.

Q. All the way through?

A. From the beginning.

Q. Yes—it did?

A. Certainly.

Q. And not a reserve?

22476 A. The amount shown here—

Q. Wait a minute. And not a reserve?

A. What do you mean, not a reserve?

Q. Was there any reserve in it?

A. What are you referring to?

Q. 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913 and 1914.

A. You are referring to the amount shown on this Exhibit 366?

Q. Yes.

A. There is no contingency reserve in that amount.

Q. It is loss on plant actually withdrawn?

A. Loss on plant actually withdrawn from service.

Q. Year by year?

A. Year by year.

By the Master:

Q. I suppose, Mr. Teele, that the same thing applies to these withdrawals during these years as applied during the later years, namely, you might find a withdrawal item in one year that in effect referred to some piece of machinery that had been discarded a year or more before?

A. The loss is not written off until the loss is actually ascertained.

Q. What I mean is, Mr. Chambers brought out as 22478
to 1918 that plant withdrawn in 1918 might have been a writing off of plant that had been disused for several years?

A. I do not know, of course, when the use of it may have been suspended. The company may have suspended the use of plant without at that time determining to discard it.

Q. The same argument would apply to all these years?

A. The same argument and the same principle applies to all of them. The plant is not necessarily discarded or scrapped because the use of it is stopped.

The Master: No, I understand it.

By Mr. Chambers: 22479

Q. You took just exactly what you found on the books?

A. I did.

Q. You have no list of property which was actually withdrawn that is included in these renewals and replacements?

Mr. Ransom: Objected to.

The Master: It is allowed.

A. No, other than the entries themselves.

Mr. Ransom: The entries show fully those

things. Mr. Chambers has them and is reading from them.

Q. This figure was an adjustment, you said. What do you mean by that?

A. When did I say these figures were an adjustment?

Q. The other night.

A. I think you misunderstood an answer. I said there were some adjustments made to the original figures in this schedule. Those are the adjustments I expected you were going to look into, but which
22481 you did not look at.

Q. You did not inquire into any details about these withdrawals; you just took what you found on the books?

A. I did not just take what I found on the books. I went back to the entries and the papers supporting the entries.

Q. What papers did you examine?

A. Whatever papers were attached or referred to in the entries, or were filed as a part of the entries.

The Master: You do not mean that you looked at every voucher or paper supporting every entry?

22482 The Witness: Practically all of them.

The Master: For all of these years?

The Witness: No, not for all years, but as to these items of loss on plant withdrawn from service I went through it. The withdrawal of plant items I went through item by item myself.

Q. Renewals and replacements I want.

A. Every one of these plant withdrawals I went through myself, and no one else but myself.

Q. Did you ascertain when you went through them what year the plant was actually withdrawn from service, as distinguished from when it was put on the books?

Mr. Ransom: I object to the question.

The Master: I will allow it.

Mr. Ransom: The question is ambiguous and is intended to be such, as was pointed out by your Honor yesterday.

The Master: I will allow it.

A. I learned whatever the data in connection with the entry disclosed.

Q. You made no changes whatever?

A. I made no changes. I had no other information.

Q. Will you please look at this 1914 operating 22484
ledger, Exhibit 268, at page 338, Mr. Teele. In your figure we find right here $1,338,582.14. Included in that, if you will just look here in this book, is $879,028.20 for the 18th Street plant; is that right?

A. What does it say?

Q. "General Suspense Dism."—and what?

A. You are trying to read an abbreviation into a record of a transaction.

Q. No, you asked me what it said. I said the 18th Street plant is in this total figure.

A. There is a figure which has something to do with the 18th Street plant in here. If you will refer to 22485
the original entry which is given on this folio we will see what the original entry says.

Q. The entry reads, "General Suspense Dism."—

The Master: I suppose this inquiry bears upon the net operating result of these years; is that the idea? In other words, if they should not have withdrawn as much as $1,338,582.14 in 1914 it would have increased the net profit in that year; is that it?

Mr. Chambers: Absolutely, and further the 18th Street plant is taken out of the withdrawals.

and the statement is in the record and appears here.

Mr. Ransom: It is taken out of the capital account, of course, but the loss was not ascertained on the 18th Street plant until the time when it was written off. It cannot be written off until the loss is ascertained.

The Master: I just asked one simple question and did not want to spend half an hour on the matter.

Mr. Chambers: That entry reads "General
22487 Suspense Dism. and Rem 18th Plant, Auditor Journal folio 493, 8879,028 29." It is under date of "Dec. 1914."

The Master: They are all December journal entries there.

The Witness: They are never dated, other than the months.

The Master: Yes, I know that.

Mr. Ransom: The details are shown in Exhibit 376.

Q. Mr. Teele, why didn't you include that plant that is set up there in your list of withdrawals, as set forth in Exhibit 367?

22488 A. I have already stated it was not in the Mayer appraisal.

Q. Why didn't you include it as being subsequently withdrawn in your last list?

A. My last list? I do not know what list you are referring to.

Mr. Ransom: Exhibit 367 is the list—

Q. Why did you not include it somewhere in Exhibit 367? First I will ask you, you have not included it anywhere in your plant withdrawn from service, have you?

A. I have not.

Q. Why didn't you?

A. I repeat again, because it was not in the Mayer appraisal.

Q. You have included all plant withdrawn subsequent to the Mayer appraisal?

A. Did I? You said I did.

Q. No, have you not included some?

A. I have included some, yes.

The Master: Where the expenditure came after the Mayer appraisal?

The Witness: Yes, where the plant was added after the Mayer appraisal and then was withdrawn I had to show it. 22490

The Master: I understand it. I think I understand it. The fact is on the record. Whatever the record is it can be the basis of argument. The fact is as the witness has stated and as it is developed on the record. Let us get along to the next one.

Q. Right underneath that is another very large item, sundries, $151,640.62. You did not include those in your Exhibit 367, did you?

A. I don't know what they were.

Q. You looked to find out what they were, did you, what those sundries were? 22491

A. Yes, sir.

Q. And you found out?

A. Yes, sir.

Q. What were they?

A. I do not recall. If you will refer to the original entry it will tell you. If I can refer to it I can tell you.

Q. Now, take the item, taxes and interest thereon?

A. Just a minute, Mr. Chambers, until I get my tax sheet.

Mr. Ransom: The details of these taxes is be-

ing prepared in tabular form. It has been asked for and will be furnished.

Mr. O'Brien: Are we going to have it by Monday?

Mr. Ransom: I think so, without doubt.

The Master: Did you ask for it?

Mr. O'Brien: My co-defendant asked for it.

The Master: You are going into your cross-examination today.

Mr. O'Brien: My cross of what?

The Master: Of Exhibit 366.

22493 Mr. O'Brien: Well, I will cover part of my cross.

The Master: You will finish your cross today. Major Clark asked for some data and you are not going to have it.

Mr. O'Brien: Well, your Honor will make the ruling and I will make my protest and exception at the right time, when we reach it.

Q. Included in your list of taxes were taxes for real estate for each year?

A. Yes.

Q. Now, the real estate that you included for each year, what was that, generally? Is it the same as on

22494 Exhibit 178?

A. It is based upon that. Starting with that, if there was any real estate either added or withdrawn during the years 1906 to 1918, from use in the gas business consideration was given to those changes, and the taxes included in each year here, that is the real estate taxes, upon the properties in use in the gas business each year.

The Master: As stated to you?

The Witness: As stated to me, based upon Exhibit 178, and additional information furnished to me by the engineer of the company.

22495

The Master: You relied on information you got?

The Witness: I did.

Q. Did you include in taxes, taxes on any property other than in Exhibit 178?

A. The different years have some slight changes in them. The details of those changes in the taxes I cannot give you at this time, because I have not the details schedule before me.

Q. Now, you have a schedule showing block and lot number each year, of the taxes you included?

A. Real estate taxes.

22496

Q. Right straight through?

A. I have.

Q. Lot and block?

A. I have.

Q. Will you produce that? I suggest that you state on the record the list.

Mr. Ransom: The witness has produced his working papers. It is identical with the detail which has been called for by Major Clark.

Mr. Chambers: I want it on the record now, just what block and lot and what taxes is included year by year.

The Master: I understand he is having some copies made of it, and that Major Clark has called for it and will have that. If that is not covered by Major Clark's exhibit—

22497

Mr. Chambers: I would like to ask the question and have him testify to it on the record.

Mr. Ransom: As a time-killing device.

The Master: Is that being copied now?

The Witness: I am preparing from these working papers a statement showing the block and lot number and the amount of tax included in 366.

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The Master: Do these working papers show it?

The Witness: They do show it, and they show other things. These are my own working papers from which I made the analysis.

Mr. Chambers: I want an answer to the question, just have him give the stenographer—

The Master: Well, I am not going to have him waste two hours in reading this—

Mr. Chambers: That is the trouble with the Master, you jump at conclusions. I am going to

22499 try to save time.

The Master: How does it save time to have him sit here and read this?

Mr. Chambers: I say, let him hand that to the stenographer just as if the answer to my question were given. Here is the question:

Q. In each year what block and lot number did you include? You have told me you had it. Now please give it.

Mr. Chambers: Now, I suggest that he hand it to the stenographer and let the stenographer copy it.

The Master: The point is this—I understand

22500 this is being copied.

The Witness: I am preparing a schedule from it.

The Master: Why isn't that schedule simply a copy of this?

The Witness: Because there is unnecessary information contained on that.

The Master: For instance, what do you mean?

The Witness: This is the only thing that is necessary (indicating) to explain the details of this, block and lot number and amount of tax. All the rest of it is unnecessary.

Mr. Ransom: May the record show that Mr. O'Brien is now examining these working papers?

Mr. O'Brien: Yes, looking over some paper that is before the Court—within his rights always.

Mr. Ransom: I am glad to have Mr. O'Brien look at these underlying papers, as the Court directed him to do a long while ago.

The Master: I shall do this. I shall have this marked as an exhibit, as a defendants' exhibit. Mr. Teele is having prepared at the request of Major Clark a statement, as he says, based on 22502
this. If Mr. Chambers later on finds anything on these working sheets that he wants to have especially spread on the record—in other words, if you don't think the statement that Mr. Teele is preparing is fair in any respect, or does not cover some items that he has here, you may spread it out. But what I want to avoid is having thirty or forty or fifty sheets copied into the record.

The Witness: Those are my own working papers; they were not prepared for an exhibit.

Mr. Chambers: I object to having that as our exhibit, I don't want it. I except to that. I don't want to offer it in evidence because I want to 22503
attack it. I can't attack my own exhibit.

The Master: But you want to ask the witness to read all this in. What is the difference whether it is marked as an exhibit or whether it is read in?

Mr. Chambers: I want to challenge it. Supposing you throw out a certain piece of property in 1912, and he has got taxes on it, how are you going to find out how much tax is to come out?

Mr. Ransom: If your Honor will defer cross-examination on 366—

Mr. Chambers: No, we are ready to proceed. I am willing to save time, I don't think it is necessary for us to sit here and have him read it off, he can hand it to the stenographer.

The Master: What you want spread on the record is the block number, the lot number, the assessed value, the tax assessed, and the column "Gas." That means, I suppose, property used in the gas business?

The Witness: That is the amount of tax which is taken into Exhibit 366.

22505 The Master: The last column is "Non-gas," is that the idea?

Mr. Chambers: I don't care for that.

The Witness: I made a separation as between properties used in the gas business and properties not used in the gas business?

The Master: I will do what Mr. Chambers wants. I think it is unnecessary, but so that we can proceed with the cross-examination I will have the stenographer copy these items from each sheet, the block number, the lot number, assessment column, tax assessed, and "Gas."

22506 The Witness: Your Honor, I don't think you can get what you want without my preparing it from these papers.

The Master: I don't care. Mr. Chambers would have a right to say to you, "Did you base Block No. and Lot No. so and so, at what figure did you take that"—I think he would be entitled to do it.

The Witness: I can furnish it to him and will do so. It is already in preparation.

Mr. Ransom: I don't think working papers ought to be copied in in that form. I do not believe your Honor wants it, except in the correct form.

The Master: That will be copied in as I have instructed.

Mr. Ransom: It is done over the complainant's objection and exception.

The Master: That paper will be marked, Mr. Teele's working sheets endorsed "Schedule of Real Estate Taxes, 1906 to 1917, inclusive, and Distribution Thereof Between Gas and Non-Gas," that will be marked as Defendants' Exhibit, for identification.

Mr. Ransom: Over the complainant's objection and exception. 22508

The Master: The stenographer will copy into the record the items that I have directed, the block and lot number, assessed amount, amount of tax, and the amount charged to gas.

Mr. Ransom: And the complainant in addition to the objection and exception states on the record that from his knowledge of these working papers your Honor will not find that the method you have followed gives you information which will be of value.

Mr. O'Brien: I except to the receipt of this in evidence—

The Master: It is not being received in evidence. 22509

Mr. O'Brien: You have asked—

The Master: I will not hear another word.

Paper marked Defendants' Exhibit AA25 for identification.

22510 Defendants' Exhibit AA25 for Identification.

Defendants' Exhibit AA25 for Identification.

SCHEDULES OF REAL ESTATE TAXES—1906-1917 INCLUSIVE.

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1906

22511 Block No.	Lot No.	Assessment	Tax Assessed	Gas
691	11	185,000	2,735.96	2,735.96
715	51	10,000	147.89	
...	59	100,000	1,478.90	1,478.90
716	14	36,000	532.40	532.40
870	54	12,000	177.46	177.46
...	56	44,000	650.71	650.71
...	59	135,000	1,996.51	1,996.51
...	60	40,000	591.56	591.56
951	35	60,000	887.34	887.34
952	7	335,000	4,954.31	4,954.31
...	29	10,000	147.89	147.89
22512 ...	30	27,000	399.30	399.30
...	33	8,000	118.31	
...	34	8,000	118.31	
...	35	45,000	665.50	665.50
953	1	785,000	11,609.36	11,609.36
972	45	21,000	310.56	
978	1	15,000	221.83	
...	2	12,000	177.46	
...	3	12,000	177.46	
...	5	20,000	295.78	295.78
...	6	500,000	7,394.50	7,394.50
979	1	542,000	8,015.63	8,015.63

Defendants' Exhibit AA25 for Identification. 22513

982	13	475,000	7,024.77	7,024.77	
985	7	200,000	2,957.80	2,862.29	
...	19	6,000	88.73		
...	20	6,000	88.73		
...	39	6,000	88.73		
...	40	6,000	88.73		
1070	3	70,000	1,035.23	1,035.23	
1071	10	9,500	140.49		
...	11	9,500	140.49		
...	12	9,500	140.49		
...	13	9,500	140.49		
1089	1	800,000	11,831.20	11,831.20	22514
1090	23	53,000	781.81	783.81	
1092	1	550,000	8,133.95	8,133.95	
...	28	5,500	81.33		
...	38	5,000	73.94		
...	38½	5,000	73.94		
...	39	5,000	73.94		
1093	1	425,000	6,285.32	6,285.32	
1107	7	85,000	1,257.06	1,257.06	
...	23	75,000	1,109.17	1,109.17	
...	28	75,000	1,109.17	1,109.17	
1156	45	9,500	140.49		
...	46	18,000	266.20		
1157	1	1,000,000	14,789.00	14,789.00	22515
1177	21	150,000	2,218.35	2,218.35	
1455	13	156,000	2,307.08		
1457	6	225,000	3,327.52	3,327.52	
1474	24	15,000	221.83		
1642	32	43,000	635.92	635.92	
...	33	52,000	769.02	769.02	
1643	56	27,000	399.30		
...	57	13,500	199.65		
...	58	13,500	192.25		
239	1	90,000	1,331.01	1,331.01	
...	5	38,000	561.98	561.98	

22516 Defendants' Exhibit AA25 for Identification.

	688	21	225,000	3,327.52	
	689	17	335,000	4,954.31	4,954.31
	690	12	320,000	4,732.48	3,246.80
	...	40	7,500	110.91	110.91
	...	42	7,500	110.91	110.91
	...	43	7,500	110.91	110.91
	...	44	7,500	110.91	110.91
	...	45	7,500	110.91	110.91
	...	48	8,000	118.31	118.31
	...	49	7,500	110.91	110.91
	...	50	7,500	110.91	110.91
22517	...	51	7,500	110.91	110.91
	..	52	7,500	110.91	110.91
	...	53	7,000	103.52	103.52
	1670	1	525,000	7,764.22	7,764.22
	1682	8	7,000	103.52	103.52
	...	11	500,000	7,394.50	7,394.50
	1683	18	55,000	813.39	813.39
	...	34	6,000	88.73	
	...	35	6,000	88.73	
	1692	1	135,000	1,996.51	1,996.51
	1704	1	330,000	4,880.37	4,880.37
	1712	2	35,000	517.61	517.61
	1999	1	350,000	5,176.16	2,951.81
22518	2175	15	14,000	207.04	
	...	18	36,000	532.40	545.09
	...	22	25,000	369.72	Included in
	2175	100	28,000	414.09	distribution
	...	..	50,000	900...	on preced-
					page
	987	37	55,000	813.40	813.40
	...	41	6,000	88.73	88.73
	...	42	6,000	88.73	88.73
	...	43	12,000	177.47	177.47
	...	51	7,000	103.52	103.52
	988	1*	550,000	8,133.90	8,133.90

Defendants' Exhibit AA25 for Identification. 22519

989	1	275,000	4,066.98	4,066.98
...	26	95,000	1,404.96	1,404.96
991	1	180,000	2,662.02	2,662.02
...	26	115,000	1,700.74	1,700.74
...	47	35,000	517.61	517.61
...	50	35,000	517.61	517.61
Total		12,138,500	179,669.02	164,261.70

* Tax figured at 1.4789% of assessed valuation.

22520

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1907

Block No.	Lot No.	Assessment	Tax Assessed	Gas	
239	1	95,000	1,410.74	1,410.74	
	5	41,000	608.84	608.84	
688	21	225,000	3,341.22		
689	17	335,000	4,974.71	4,974.71	
690	12	330,000	4,751.96	3,260.16	22521
	40	7,500	111.37	111.37	
	42	7,500	111.37	111.37	
	43	7,500	111.37	111.37	
	44	7,500	111.37	111.37	
	45	7,500	111.37	111.37	
	48	8,000	118.79	118.79	
	49	7,500	111.37	111.37	
	50	7,500	111.37	111.37	
	51	7,500	111.37	111.37	
	52	7,500	111.37	111.37	
	53	7,000	103.94	103.94	

22522 Defendants' Exhibit AA25 for Identification.

	691	11	185,000	2,747.23	2,747.23
	715	51	10,000	148.49	
		59	100,000	1,484.99	1,484.99
	716	14	36,000	534.59	534.59
	870	54	12,500	185.62	185.62
		56	45,000	668.24	668.24
		59	135,000	2,004.73	2,004.73
		60	40,000	593.99	593.99
	1642	32	45,000	688.24	688.24
		33	52,000	772.19	772.19
	1643	56	30,000	445.49	
22523		57	14,000	207.89	
	1643	58	14,000	207.89	
	1670	1	525,000	7,796.19	7,796.19
	1682	8	7,000	103.94	103.94
		11	500,000	7,424.95	7,424.95
	1683	18	57,000	846.44	846.44
		34	6,000	89.09	
		35	6,000	89.09	
	1692	1	135,000	2,004.73	2,004.73
	1704	1	330,000	4,900.46	4,900.46
	1712	2	35,000	519.74	519.74
	1999	1	365,000	5,420.21	3,186.71
	2175	15	14,000	207.89	
22524		18	36,000	534.59	
		22	25,000	371.24	547.33
		100	28,000	415.79	
	1092	1	600,000	8,909.94	8,909.94
		28	7,500	111.37	
		38	5,000	74.24	
		38 1/2	5,000	74.24	
		39	5,000	74.24	
	1093	1	475,000	7,053.70	7,053.70
	1107	7	95,000	1,410.74	1,410.74
		23	80,000	1,187.99	1,187.99
		28	80,000	1,187.99	1,187.99

Defendants' Exhibit AA25 for Identification. 22525

1156	45	10,000	148.49		
	46	18,000	267.29		
1157	1	1,000,000	14,849.90	14,849.90	
1177	21	190,000	2,821.48	2,821.48	
1455	13	156,000	2,316.58		
1457	6	225,000	3,341.22	3,341.22	
1474	24	15,000	222.74		
951	35	60,000	890.99	890.99	
952	7	335,000	4,974.71	4,974.71	
	29	10,000	148.49	148.49	
	30	27,000	400.94	400.94	
	33	8,000	118.79		22526
	34	8,000	118.79		
	35	45,000	668.24	668.24	
953	1	785,000	11,657.17	11,657.17	
972	45	21,000	311.84		
978	1	15,000	222.74		
	2	12,000	178.19		
	3	12,000	178.19		
	4	9,000	133.64		
	5	20,000	296.99	296.99	
	6	500,000	7,424.95	7,424.95	
979	1	542,000	8,048.64	8,048.64	
982	13	475,000	7,053.70	7,053.70	
985	7	200,000	2,969.98	2,874.07	22527
	19	6,000	89.09		
	20	6,000	89.09		
	39	6,500	96.52		
	40	6,500	96.52		
987	37	60,000	890.99	890.99	
	41	6,500	96.52	96.52	
	42	6,500	96.52	96.52	
	43	12,000	178.20	178.20	
	51	7,000	103.95	103.95	
988	1	550,000	8,167.45	8,167.45	
989	1	278,000	4,128.27	4,128.27	
	26	Taken by City			

22528 Defendants' Exhibit AA25 for Identification.

991	1	180,000	2,672.98	2,672.98
	26	Taken by City		
	47	35,000	519.75	519.75
	50	Taken by City		
1070	5	75,000	1,113.74	1,113.74
1071	10	11,000	163.35	
	11	11,000	163.35	
	12	11,000	163.35	
	13	11,000	163.35	
1089	1	850,000	12,622.42	12,622.42
1090	23	73,000	1,084.04	1,084.04
			180,255.04	
22529			180,255.04	
Unidentified difference bet. amt. of Tax Bills & Amt. ch'd to Taxes			.14	
Total				
New York		12,138,500	180,255.18	165,346.50
Edgewater			1,722.60	
			181,977.78	165,346.50

22530

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1908

Block No.	Lot No.	Assessment	Tax Assessed	Gas
		120,000.00	2,256.00	
951	35	70,000	1,129.84	1,129.84
952	7	335,000	5,407.13	5,407.13
	29	12,500	201.75	201.75
	30	32,000	516.50	516.50

Defendants' Exhibit AA25 for Identification. 22531

	33/35	75,000	1,210.53	887.73	
953	1	785,000	12,670.44	12,670.44	
972	45	22,000	355.09		
978	1	19,500	314.74		
	2	15,000	242.11		
	3	15,000	242.11		
	4	12,000	193.68		
	5	27,000	435.79	435.79	
	6	500,000	8,070.35	8,070.35	
979	1	542,000	8,748.25	8,748.25	
982	13	475,000	7,666.83	7,666.83	
985	7	200,000	3,228.14	3,103.72	22532
1089	1	950,000	15,333.66	15,333.66	
1090	23	81,000	1,307.39	1,307.39	
1092	1	650,000	10,491.45	10,491.45	
	28	8,500	137.19		
	38	5,500	88.77		
	38 1/2	5,500	88.77		
	39	5,500	88.77		
1093	1	500,000	8,070.35	8,070.35	
1107	7	110,000	1,775.47	1,775.47	
	23	80,000	1,291.25	1,291.25	
	28	80,000	1,291.25	1,291.25	
1156	45	10,000	161.40		
1156	46	18,000	290.53		22533
1157	1	1,000,000	16,140.70	16,140.70	
1177	21	195,000	3,147.43	3,147.43	
1455	13	156,000	2,517.94		
1457	6	225,000	3,631.65	3,631.65	
1474	24	15,000	242.11		
239	1	105,000	1,694.77	1,694.77	
	5	50,000	807.03	807.03	
688	21	250,000	4,035.17		
689	17	335,000	5,407.13	5,407.13	
690	12	295,000	4,761.50	3,302.18	
	40	7,500	121.05	121.05	

22534 Defendants' Exhibit AA25 for Identification.

		42 45	30,000	484.20	484.20
		48 53	45,000	726.30	726.30
	691	11	185,000	2,986.02	2,986.02
	715	51	10,000	161.40	
		59	100,000	1,614.07	1,614.07
	716	14	36,000	581.06	581.06
	870	54	12,500	201.75	201.75
		56	45,000	726.33	726.33
		59	135,000	2,178.99	2,178.99
		60	40,000	645.62	645.62
	1642	32	45,000	726.33	726.33
		33	52,000	839.31	839.31
22535	1643	56	30,000	484.22	
		57	14,000	225.96	
		58	14,000	225.96	
	1670	1	625,000	10,087.93	10,087.93
	1682	8	10,000	161.40	161.40
		11	550,000	8,877.38	8,877.38
	1683	18	77,000	1,242.83	1,242.83
		34	7,000	112.98	
		35	7,000	112.98	
	1692	1	150,000	2,421.10	2,421.10
	1704	1	400,000	6,456.28	6,456.28
	1712	2	60,000	968.44	968.44
	1999	1	365,000	5,891.35	3,463.70
22536					
Tax Bills missing valuations extended at Tax rate of 1.6140%	2175	15	14,000	225.96)	
		18	36,000	591.06)	5
		22	25,000	403.51)	
		100	28,000	451.93)	
	985	19	7,500	121.06	
		20	7,500	121.06	
		39	7,500	121.06	
		40	7,500	121.06	
	987	37	82,000	1,323.53	1,323.53
		41	7,500	121.06	121.06

Defendants' Exhibit AA25 for Identification. 22537

	42	7,500	121.06	121.06	
	43	14,000	225.97	225.97	
	51	10,000	161.41	161.41	
988	1	550,000	8,877.38	8,877.38	
989	1	278,000	4,487.11	4,487.11	
991	1	180,000	2,905.32	2,905.32	
	47	35,000	564.92	564.92	
1070	5	90,000	1,452.66	1,452.66	
1071	10	14,000	225.97		
	11	14,000	225.97		
	12	14,000	225.97		
	13	14,000	225.97		22538
Total per Tax bills & above computation			208,243.20		
Unidentified difference			.12		
Total per ledger a/c		12,822,000	208,243.08	188,875.46	

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES 22539

1909

Block No.	Lot No.	Assessment	Tax Assessed	Gas
113	1	3,200	60.16	
113	2	154,400	2,902.72	
113	3	4,800	90.24	
239	1	105,000	1,761.94	1,761.94
239	5	50,000	839.02	839.02
688	21	250,000	4,195.10	
689	17	335,000	5,621.43	5,621.43

22540 Defendants' Exhibit AA25 for Identification.

	690	12	295,000	4,950.21	3,433.05
	"	40	7,500	125.85	125.85
	"	42	7,500	125.85	125.85
	"	43	7,500	125.86	125.85
	"	44	7,500	125.86	125.85
	"	45	7,500	125.85	125.85
	"	48	8,000	134.24	134.24
	"	49	7,500	125.85	125.85
	"	50	7,500	125.85	125.85
	"	51	7,500	125.85	125.85
	"	52	7,500	125.85	125.85
22541	"	53	7,500	117.46	117.46
	691	11	185,000	3,104.37	3,104.37
	715	51	10,000	167.80	
	"	59	100,000	1,678.04	1,678.04
	716	14	36,000	604.09	604.09
	870	54	12,500	209.75	209.75
		56	45,000	755.11	755.11
		59	135,000	2,265.35	2,265.35
		60	40,000	671.21	671.21
	951	35	69,000	1,157.84	1,157.84
	952	7	335,000	5,621.43	5,621.43
	952	29	12,500	209.75	209.75
	"	30	32,000	536.97	536.97
22542	"	33	10,000	167.80	
		34	10,000	167.80	
		35	55,000	922.92	922.92
	953	1	785,000	13,172.61	13,172.61
	972	45	22,000	369.16	
	978	1	19,500	327.21	
		2	15,000	251.70	
		3	15,000	251.70	
		4	12,000	201.36	
		5	27,000	453.07	453.07
		6	500,000	8,390.20	8,390.20
	979	1	542,000	9,094.97	9,094.97
	982	13	475,000	7,970.69	7,970.69

Defendants' Exhibit AA25 for Identification. 22543

985	7	200,000	3,356.08	3,226.73	
	19	7,500	125.85		
	20	7,500	125.85		
1093	1	500,000	8,390.20	8,390.20	
1107	7	135,000	2,265.35	2,265.35	
	23	100,000	1,678.04	1,678.04	
	28	100,000	1,678.04	1,678.04	
1156	45	11,000	184.58		
	46	21,000	352.38		
1157	1	1,000,000	16,780.40	16,780.40	
1177	21	195,000	3,272.17	3,272.17	
1455	13	156,000	2,617.74		22544
1457	6	225,000	3,775.59	3,775.59	
1474	24	15,000	251.70		
1071	10	14,000	234.92		
	11	14,000	234.92		
	12	14,000	234.92		
	13	14,000	234.92		
1089	1	950,000	15,941.38	15,941.38	
1090	23	81,000	1,359.21	1,359.21	
1092	1	650,000	10,907.26	10,907.26	
	28	8,500	142.63		
	38	5,500	92.29		
	38½	5,500	92.29		
	39	5,500	92.29		22545
1642	32	45,000	755.11	755.11	
	33	52,000	872.58	872.58	
1643	56	30,000	503.41		
	57	14,000	234.92		
	58	14,000	234.92		
1670	1	625,000	10,487.75	10,487.75	
1682	8	10,000	167.80	167.80	
	11	550,000	9,229.22	9,229.22	
1683	18	77,000	1,292.09	1,292.09	
	34	7,000	117.46		
	35	7,000	117.46		
1692	1	151,000	2,533.84	2,533.84	

22546 Defendants' Exhibit AA25 for Identification.

	1704	1	400,000	6,712.16	5,773.80
	1712	2	60,000	1,006.82	
	1900	1	365,000	6,124.84	3,600.98
	2175	15	14,000	234.92)	
				)	618.49
		18	36,000	604.09)	
	2175	22	25,000	419.15)	included in
				)	distribution
		100	28,000	469.85)	on preceding
	2583	360	*45,000	755.11)	page
	979	27	* 6,000	100.68	

22547 *Not included in tax figures for 1909. See 1910.

085	39	7,500	125.85	Tax bill missing taken from Company records of assessed valuation and computed at tax rate of 1.67804%, $1,269,000.	
	40	7,500	125.85		
	087	37	82,000	1,375.99	1,375.99
		41	7,500	125.85	125.85
		42	7,500	125.85	125.85
		43	14,000	234.93	234.93
		51	10,000	167.80	167.80
22548	088	1	550,000	9,229.22	9,229.22
	089	1	278,000	4,664.95	4,664.95
	091	1	180,000	3,020.47	3,020.47
		47	35,000	587.32	587.32
	1070	5	90,000	1,510.24	1,510.24
	Total			218,362.14	
	Unidentified difference between tax bills and Amt. chg'd to taxes			.03	
			13,044,400	218,362.11	195,506.81

Defendants' Exhibit AA25 for Identification. 22549

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1910

Block No.	Lot No.	Assessment	Tax Assessed	Gas	
239	1	105,000	1,845.79	1,845.79	
	5	50,000	878.95	878.95	
688	21	250,000	4,394.75		
689	17	335,000	5,888.96	5,888.96	
690	12	295,000	5,185.80	3,596.43	22550
	40	7,500	131.84	131.84	
	42	7,500	131.84	131.84	
	43	7,500	131.84	131.84	
	44	7,500	131.84	131.84	
	45	7,500	131.84	131.84	
	48	8,000	140.63	140.63	
	49	7,500	131.84	131.84	
	50	7,500	131.84	131.84	
	51	7,500	131.84	131.84	
	52	7,500	131.84	131.84	
	53	7,000	123.05	123.05	
691	11	185,000	3,252.11		
715	51	10,000	175.79		
	59	100,000	1,757.90	1,757.90	22551
716	14	36,000	632.84	632.84	
870	54	12,500	219.73	219.73	
	56	45,000	791.05	791.05	
	59	135,000	2,373.16	2,373.16	
	60	40,000	703.16	703.16	
951	35	69,000	1,212.95	1,212.95	
952	7	345,000	6,064.75	6,064.75	
	29	12,500	219.73	219.73	
	30	31,000	544.94	544.94	
952	33	10,000	175.79		

2.	22552	Defendants' Exhibit AA25 for Identification.				
			34	10,000	175.79	
			35	47,000	826.21	826.21
		953	1	785,000	13,799.51	13,799.51
		972	45	21,000	369.15	
		978	1	18,000	316.42	
			2	14,000	246.10	
			3	14,000	246.10	
			4	11,000	193.36	
			5	25,500	448.26	448.26
			6	500,000	8,789.50	8,789.50
		979	1	542,000	9,527.81	9,527.81
2.	22553		59	100,000	1,757.90	1,757.90
		716	14	36,000	632.84	632.84
		870	54	12,500	219.73	219.73
			56	45,000	791.05	791.05
			59	135,000	2,373.16	2,373.16
			60	40,000	703.16	703.16
		951	35	69,000	1,212.95	1,212.95
		952	7	345,000	6,064.75	6,064.75
			29	12,500	219.73	219.73
			30	31,000	544.94	544.94
		952	33	10,000	175.79	
			34	10,000	175.79	
			35	47,000	826.21	826.21
2.	22554	953	1	785,000	13,799.51	13,799.51
		972	45	21,000	369.15	
		978	1	18,000	316.42	
			2	14,000	246.10	
			3	14,000	246.10	
			4	11,000	193.36	
			5	25,500	448.26	448.26
			6	500,000	8,789.50	8,789.50
		979	1	542,000	9,527.81	9,527.81
		979	27	*6,000	105.47	*Included in 1911 taxes.

Defendants' Exhibit AA25 for Identification. 22555

982	13	455,000	8,350.02	8,350.02	
985	7	200,000	3,515.80	3,380.29	
	19	7,500	131.84		
	20	7,500	131.84		
	39	7,500	131.84		
	40	7,500	131.84		
987	37	85,000	1,494.21	1,494.21	
	41	7,500	131.84	131.84	
	42	7,500	131.84	131.84	
	43	14,000	246.10	246.10	
	51	8,500	149.42	149.42	
988	1	540,000	9,492.66	9,492.66	22556
989	1	275,000	4,834.22	4,834.22	
991	1	180,000	3,164.22	3,164.22	
	47	60,000	1,054.74	1,054.74	
1070	5	90,000	1,582.11	1,582.11	
1089	1	950,000	16,700.05	16,700.05	
1090	23	81,000	1,423.89	1,423.89	
1092	1	650,000	11,426.35	11,426.35	
	28	8,500	149.42		
	38	5,500	96.68		
	38½	5,500	96.68		
	39	5,500	96.68		
1093	1	500,000	8,789.50	8,789.50	
1107	7	135,000	2,373.16	2,373.16	22557
	23	100,000	1,757.90	1,757.90	
	28	100,000	1,757.90	1,757.90	
1156	45	11,000	193.36		
	46	21,000	369.15		
1157	1	1,000,000	17,579.00	17,579.00	
1177	21	200,000	3,515.80	3,515.80	
1455	13	156,000	2,742.32		
1457	6	225,000	3,955.27	3,955.27	
1474	24	11,000	263.68		
1642	32	45,000	791.05	791.05	
	33	52,000	914.10	914.10	
1643	56	30,000	527.37		

22558 Defendants' Exhibit AA25 for Identification.

		57	14,000	246.10	
		58	14,000	246.10	
	1670	1	625,000	10,986.87	10,986.87
	1682	8	10,000	175.79	175.79
		11	550,000	9,668.45	9,668.45
	1683	18	77,000	1,353.58	1,353.58
	1683	34	7,000	123.05	
		35	7,000	123.05	
	1692	1	151,000	2,654.42	2,654.42
	1704	1	400,000	7,031.60	6,048.58
	1712	2	60,000	1,054.74	
22559	1900	1	365,000	6,416.33	3,772.35
	2108	23	34,000	597.68	597.68
	2175	15	14,000	246.10)	
		18	36,000	632.84)	660.69
		22	25,000	439.47)	
		100	28,000	492.21)	
	2583	360	71,000	1,248.10	1,248.10
	3236	1	120,000	2,109.48	2,109.48
			Total 1910 Taxes	228,746.41	

Included in 1910 Taxes

22560	2583	360	1906 Bronx	443.67	443.67
	2583	360	1907 Bronx	371.24	371.24
	979	27	1908 Manhattan	96.84	96.84
	2583	360	Bronx	726.33	726.33
	979	27	1909 Manhattan	100.68	100.68
	2583	360	Bronx	755.11	755.11
			1910 Edgewater, N. J.	40.00	
				231,280.28	208,337.37

Defendants' Exhibit AA25 for Identification. 22561

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1911

Block No.	Lot No.	Assessment	Tax Assessed	Gas	
239	1	105,000	1,808.60	1,808.60	
239	5	50,000	861.24	861.24	
688	21	350,000	6,028.68		
689	17	465,000	8,009.53	8,009.53	
690	12	380,000	6,545.42	4,399.75	
690	40	10,000	172.24	172.24	22562
690	42	10,000	172.24	172.24	
690	43	10,000	172.24	172.24	
690	44	10,000	172.24	172.24	
690	45	10,000	172.24	172.24	
690	48	10,500	180.86	180.86	
690	49	10,000	172.24	172.24	
690	50	10,000	172.24	172.24	
690	51	10,000	172.24	172.24	
690	52	10,000	172.24	172.24	
690	53	10,000	172.24	172.24	
715	51	10,000	172.24		
715	59	100,000	1,722.48	1,722.48	
716	14	36,000	620.09	620.09	22563
870	56	60,000	1,033.48	1,033.48	
870	59	125,000	2,153.10	2,153.10	
870	60	40,000	688.99	688.99	
951	35	69,000	1,188.51	1,188.51	
952	7	345,000	5,942.55	5,942.55	
952	29	12,500	215.31	215.31	
952	30	31,000	533.96	533.96	
952	33	10,000	172.24		
952	34	10,000	172.24		
952	35	47,000	809.56	809.56	
953	1	785,000	13,521.46	13,521.46	
972	45	21,000	361.72		

Defendants' Exhibit AA25 for Identification.

	978	1		18,000	310.04	
	978	2		14,000	241.14	
	978	3		14,000	241.14	
	978	4		11,000	189.47	
	978	5		25,500	439.23	439.23
	978	6		500,000	8,612.40	8,612.40
	979	1		542,000	9,335.84	9,335.84
	979	27		6,000	103.34	103.34
	982	13		475,000	8,181.78	8,181.78
	985	7		200,000	3,444.96	3,312.18
	985	19		7,500	129.18	
22565	985	20		7,500	129.18	
	985	39		7,500	129.18	
	985	40		7,500	129.18	
	987	37		85,000	1,464.10	1,464.10
	987	41		7,500	129.18	129.18
	987	42		7,500	129.18	129.18
	987	43		14,500	249.75	249.75
	987	51		8,500	146.41	146.41
	988	1		540,000	9,301.39	9,301.39
	989	1		375,000	6,459.30	6,459.30
	991	1		180,000	3,100.46	3,100.46
	991	47		67,000	1,154.06	1,154.06
	1070	5		98,000	1,688.03	1,688.03
22566	1089	1		950,000	16,363.56	16,363.56
	1090	23		81,000	1,395.20	1,395.20
	1092	1		650,000	11,196.12	11,196.12
	1092	28		8,500	146.41	
	1092	38		5,500	94.73	
	1092	38	1 2	5,500	94.73	
	1092	39		5,500	94.73	
	1093	1		500,000	8,612.40	8,612.40
	1107	7		145,000	2,497.59	2,497.59
	1107	23		105,000	1,808.60	1,808.60
	1107	28		105,000	1,808.60	1,808.60
	1156	45		11,000	189.47	
	1156	46		24,000	413.39	

Defendants' Exhibit AA25 for Identification. 22567

1157	1	1,100,000	18,947.28	18,947.28	
1177	21	200,000	3,444.96	3,444.96	
1455	13	156,000	2,687.06		
1457	6	290,000	4,995.19	4,995.19	
1474	24	15,000	258.37		
1642	32	45,000	775.11	775.11	
1642	33	52,000	895.68	895.68	
1643	56	30,000	516.74		
1643	57	15,000	258.37		
1643	58	15,000	258.37		
1670	1	675,000	11,626.74	11,626.74	
1682	8	12,000	206.69	206.69	22568
1682	11	585,000	10,076.50	10,076.50	
1683	18	87,000	1,498.55	1,498.55	
1683	34	8,000	137.79		
1683	35	8,000	137.79		
1692	1	236,000	4,065.05	4,065.05	
1704	1	500,000	8,612.40	7,408.39	
1712	2	60,000	1,033.48		
1999	1	675,000	11,626.74	7,569.60	
2108	23	35,000	602.86	602.86	
2175	15	14,000	241.14)		
2175	18	36,000	620.09)	647.39	
2175	22	25,000	430.62)		
2175	100	28,000	482.29)		22569
		13,878,500.	239,053.97	215,660.56	
2583	360	81,500	1,403.82	1,403.82	
3236	1	225,000	3,875.58	3,875.58	
		306,500	5,279.40	5,279.40	
	Total 1911 Taxes		244,333.37		
979-1	27	Tax Taken in 1911 Accts.	105.47	105.47	
	Total		244,438.84	221,045.43	

2. 22570 Defendants' Exhibit AA25 for Identification.

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1912

	Block No.	Lot No.	Assessment	Tax Assessed	Gas
	239	1	105,000	1,921.50	1,921.50
	239	5	50,000	915.00	915.00
	688	21	352,000	6,441.60	
	689	17	465,000	8,509.50	8,509.50
2. 22571	690	12	380,000	6,954.00	4,674.39
	690	40	10,000	183.00	183.00
	690	42	10,000	183.00	183.00
	690	43	10,000	183.00	183.00
	690	44	10,000	183.00	183.00
	690	45	10,000	183.00	183.00
	690	48	10,500	192.15	192.15
	690	49	10,000	183.00	183.00
	690	50	10,000	183.00	183.00
	690	51	10,000	183.00	183.00
	690	52	10,000	183.00	183.00
	690	53	10,000	183.00	183.00
	715	51	10,000	183.00	
	715	59	100,000	1,830.00	1,830.00
2. 22572	716	14	36,000	658.80	658.80
	870	48	25,500½	233.32	233.32
	870	49	23,500½	215.02	215.02
	870	50	22,000½	201.30	201.30
	870	53	89,000½	814.35	814.35
	870	56	250,000	4,575.00	4,575.00
	870	59	155,000	2,836.50	2,836.50
	870	60	42,500	777.75	777.75
	951	35	69,000	1,262.70	1,262.70
	952	7	345,000	6,313.50	6,313.50
	952	29	12,500	228.75	228.75
	952	30	31,000	567.30	567.30
	952	33	10,000	183.00	

Defendants' Exhibit AA25 for Identification. 22573

952	34	10,000	183.00		
952	35	47,000	860.10	860.10	
953	1	785,000	14,365.50	14,365.50	
972	45	12,000	219.60		
978	1	18,000	329.40		
978	2	14,000	256.20		
978	3	14,000	256.20		
978	4	11,000	201.30		
978	5	25,500	466.65	466.65	
978	6	500,000	9,150.00	9,150.00	
979	1	542,000	9,918.60	9,918.60	
979	27	6,000	109.80	109.80	22574
982	13	475,000	8,692.50	8,692.50	
985	7	200,000	3,660.00	3,518.94	
985	19	7,500	137.25		
985	20	7,500	137.25		
985	39	7,500	137.25		
985	40	7,500	137.25		
987	37	85,000	1,555.50	1,555.50	
987	41	7,500	137.25	137.25	
987	42	7,500	137.25	137.25	
987	43	14,500	265.35	265.35	
987	51	8,500	155.55	155.55	
988	1	540,000	9,882.00	9,882.00	
989	1	375,000	6,862.50	6,862.50	22575
991	1	180,000	3,294.00	3,294.00	
991	47	67,000	1,226.10	1,226.10	
1070	5	98,000	1,793.40	1,793.40	
1089	1	950,000	17,385.00	17,385.00	
1090	23	81,000	1,482.30	1,482.30	
1092	1	675,000	12,352.50	12,352.50	
1092	28	8,500	155.55		
1092	38	5,500	100.65		
1092	38½	5,500	100.65		
1092	39	5,500	100.65		
1093	1	525,000	9,607.50	9,607.50	
1107	7	145,000	2,653.50	2,653.50	

Defendants' Exhibit AA25 for Identification.

22576	1107	23	105,000	1,921.50	1,921.50
	1107	28	105,000	1,921.50	1,921.50
	1156	45	11,000	201.30	
	1156	46	24,000	439.20	
	1157	1	1,100,000	20,130.00	20,130.00
	1177	21	205,000	3,751.50	3,751.50
	1455	13	156,000	2,854.80	
	1457	6	310,000	5,673.00	5,673.00
	1474	24	15,000	274.50	
	1642	32	45,000	823.50	823.50
	1642	33	52,000	951.60	951.60
22577	1643	56	30,000	549.00	
	1643	57	15,000	274.50	
	1643	58	15,000	274.50	
	1670	1	725,000	13,267.50	13,267.50
	1682	8	12,000	219.60	219.60
	1682	11	635,000	11,620.50	11,620.50
	1683	18	87,000	1,592.10	1,592.10
	1683	34	8,500	155.55	
	1683	35	8,500	155.55	
	1692	1	240,000	4,392.00	4,392.00
	1704	1	500,000	9,150.00	7,870.83
	1712	2	60,000	1,098.00	
	1999	1	675,000	12,352.50	8,042.10
22578	2108	23	37,000	677.10	677.10
	2175	15	14,000	256.20)	
	2175	18	36,000	658.80)	
	2175	22	25,000	457.50)	687.81
	2175	100	28,000	512.40)	
			13,936,000	262,714.79	237,970.76
	2583	360	102,000	1,866.60	1,866.60
	3236	1	400,000	7,320.00	7,320.00
			502,000	9,186.60	9,186.60
	Total 1912 Taxes			271,901.39	247,157.36

Defendants' Exhibit AA25 for Identification. 22579

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

Manhattan

1913

Block No.	Lot No.	Assessment	Tax Assessed	Gas	
239	1	105,000.00	1,900.50	1,900.50	
239	5	50,000.00	905.00	905.00	
688	21	352,000.00	6,371.20		
689	17	465,000.00	8,416.50	8,416.50	22580
690	12	380,000.00	6,878.00	4,623.30	
690	40	10,000.00	181.00	181.00	
690	42	10,000.00	181.00	181.00	
690	43	10,000.00	181.00	181.00	
690	44	10,000.00	181.00	181.00	
690	45	10,000.00	181.00	181.00	
690	48	10,500.00	190.05	190.05	
690	49	10,000.00	181.00	181.00	
690	50	10,000.00	181.00	181.00	
690	51	10,000.00	181.00	181.00	
690	52	10,000.00	181.00	181.00	
690	53	10,000.00	181.00	181.00	
715	51	10,000.00	181.00	181.00	22581
715	59	106,000.00	1,918.60	1,918.60	
716	14	37,000.00	669.70	669.70	
870	48	25,500.00	461.55	461.55	
870	49	23,500.00	425.35	425.35	
870	50	22,000.00	398.20	398.20	
870	53	89,000.00	1,610.90	1,610.90	
870	56	250,000.00	5,525.00	4,525.00	
870	59	155,000.00	2,805.50	2,805.50	
870	60	42,500.00	769.25	769.25	
951	35	69,000.00	1,248.90	1,248.90	
952	7	550,000.00	9,955.00	9,955.00	
952	29	12,500.00	226.25	226.25	
952	30	31,000.00	516.10	516.10	

22582 Defendants' Exhibit AA25 for Identification.

	952	33	10,000.00	181.00	
	952	34	10,000.00	181.00	
	952	35	47,000.00	850.70	850.70
	953	1	815,500.00	14,760.55	14,760.55
	972	45	12,000.00	217.20	
	978	1	18,000.00	325.80	
	978	2	14,000.00	263.40	
	978	3	14,000.00	253.40	
	978	4	11,000.00	199.10	
	978	5	25,500.00	461.55	461.55
	978	6	840,000.00	15,204.00	15,204.00
22583	979	1	1,680,000.00	30,408.00	30,408.00
	979	27	6,000.00	108.60	108.60
	982	13	843,000.00	15,258.30	15,258.30
	985	7	220,000.00	3,982.00	3,842.48
	985	17	7,500.00	135.75	
	985	20	7,500.00	135.75	
	985	39	7,500.00	135.75	
	985	40	7,500.00	135.75	
	987	37	152,500.00	2,760.25	2,760.25
	987	41	7,500.00	135.75	135.75
	987	42	7,500.00	135.75	135.75
	987	43	14,500.00	262.45	262.45
	987	51	8,500.00	153.85	153.85
	988	1	1,498,000.00	27,113.80	27,113.80
22584	989	1	447,500.00	8,099.75	8,099.75
	991	1	236,000.00	4,271.60	4,271.60
	991	47	67,000.00	1,212.70	1,212.70
	1070	5	98,000.00	1,773.80	1,773.80
	1089	1	2,425,000.00	43,892.50	43,892.50
	1090	23	81,000.00	1,466.10	1,466.10
	1092	28	8,500.00	153.85	
	1092	38	5,500.00	99.55	
	1092	38½	5,500.00	99.55	
	1092	39	5,500.00	99.55	
	1107	7	155,000.00	2,805.50	2,805.50

Defendants' Exhibit AA25 for Identification. 22585

1156	45	11,000.00	199.10		
1156	46	37,000.00	488.70		
1157	1	1,175,000.00	21,267.50	21,267.50	
1177	21	215,000.00	3,891.50	3,891.50	
1455	13	156,000.00	2,823.60		
1457	6	310,000.00	5,611.00	5,611.00	
1474	24	15,000.00	271.50		
1642	32	45,000.00	814.50	814.50	
1642	33	50,000.00	905.00	905.00	
1643	56	30,000.00	543.00		
1643	57	15,000.00	271.50		
1643	58	15,000.00	271.50		22586
1670	1	950,000.00	17,195.00	17,195.00	
1682	8	10,500.00	190.05	190.05	
1682	11	910,000.00	16,471.00	16,471.00	
1683	18	87,000.00	1,574.70	1,574.70	
1683	34	8,500.00	153.85		
	35	8,500.00	153.85		
1692	1	240,000.00	4,344.00	4,344.00	
1704	5	385,000.00	6,968.50	5,706.50	
1712	2	60,000.00	1,086.00		
1999	1	675,000.00	12,217.50	7,954.21	
2108	23	37,000.00	669.70	669.70	
2175	15	14,000.00	253.40		
	18	36,000.00	651.60		22587
	22	25,000.00	452.50		
	100	28,000.00	506.80		
1092	1	1,194,000.00	21,611.40	21,611.40	
1093	1	525,000.00	9,502.50	9,502.50	
1107	23	152,000.00	2,751.20	2,751.20	
	28	153,000.00	2,769.30	2,769.30	
Total		20 267,000.00	366,832.70	341,627.69	

22588 Defendants' Exhibit AA25 for Identification.

Manhattan					
1092	1	)Less Adj. 44th			
1093	1	)& 45th Sts. (tak-			
1107	23 & 28	en by city)		6,516.00	6,516.00
	Net Total			360,316.70	335,111.69
2583	360		91,500.00	1,656.15	1,656.15
3236	1		800,000.00	14,480.00	14,480.00
			891,500.00	16,136.15	16,136.15
22589	Bronx 1910			703.16	703.16
	Total Taxes Paid			377,156.01	
2583	Billed to Astoria			488.70	488.70
	Total Taxes per Ledger			376,667.31	351,462.30

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1914

22590

Assumed as the same as 1915: G. O. Cons. Gas Co. 34.10
others 65.90
100.00

Block No.	Lot No.	Assessment	Tax Assessed	Gas
239	1	105,000	1,869.00	1,869.00
239	5	50,000	890.00	890.00
688	21	352,000	6,265.60	
689	17	465,000	8,277.00	

Defendants' Exhibit AA25 for Identification. 22591

690	12	380,000	6,764.00	4,546.67	
690	40	10,004	178.00	178.00	
690	42	10,000	178.00	178.00	
690	43	10,000	178.00	178.00	
690	44	10,000	178.00	178.00	
690	45	10,000	178.00	178.00	
690	48	10,500	186.90	186.90	
690	49	10,000	178.00	178.00	
690	50	10,000	178.00	178.00	
690	51	10,000	178.00	178.00	
690	52	10,000	178.00	178.00	
690	53	10,000	178.00	178.00	22592
715	51	10,000	178.00	178.00	
715	59	106,000	1,886.80	1,886.80	
716	14	37,000	658.60	658.60	
870	53	171,500	3,052.70)		
870	56	300,000	5,340.00)	4,015.17	
870	60	190,000	3,382.00)		
951	35	69,000	1,228.20	1,228.20	
952	7	550,000	9,790.00	9,790.00	
952	29	12,500	222.50	222.50	
952	30	31,000	551.80	551.80	
952	33	10,000	178.00		
952	34	10,000	178.00		
952	35	47,000	836.60	836.60	22593
953	1	833,000	14,827.40	14,827.40	
972	45	12,000	213.60		
978	1	18,000	320.40		
978	2	14,000	249.20		
978	3	14,000	249.20		
978	4	11,000	195.80		
978	5	25,500	453.90	453.90	
978	6	840,000	14,952.00	14,952.00	
979	1	1,680,000	29,904.00	29,904.00	
979	27	6,000	106.80	106.80	
982	13	843,000	15,005.40	15,005.40	

Defendants' Exhibit AA25 for Identification.

22594	985	7		220,000	3,916.00	3,916.00
	985	19		9,000	160.20	160.20
	985	20		9,000	160.20	160.20
	985	39		7,500	133.50	
	985	40		7,500	133.50	
	987	37		152,500	2,714.50	2,714.50
	987	41		7,500	133.50	133.50
	987	42		7,500	133.50	133.50
	987	43		14,500	258.10	258.10
	987	51		8,500	151.30	151.30
	988	1		1,498,000	26,664.40	26,664.40
22595	989	1		447,500	7,965.50	7,965.50
	991	1		236,000	4,200.80	4,200.80
	991	47		67,000	1,192.60	1,192.60
	1070	5		98,000	1,744.40	1,744.40
	1089	1		2,425,000	43,165.00	43,165.00
	1090	23		81,000	1,441.80	1,441.80
	1092	7		974,000	17,337.20	14,859.32
	1092	28		8,500	151.30	
	1092	38		5,500	97.90	
	1092	38	1 2	5,500	97.90	
	1092	39		5,500	97.90	
	1093	9		330,000	5,874.00	5,409.12
	1107	7		155,000	2,759.00	2,759.00
22596	1156	45		11,000	195.80	
	1156	46		27,000	480.60	
	1157	1		1,200,000	21,360.00	21,360.00
	1177	21		250,000	4,450.00	4,450.00
	1455	13		156,000	2,776.80	
	1457	6		310,000	5,518.00	5,518.00
	1474	24		15,000	267.00	
	1642	32		45,000	801.00	801.00
	1642	33		50,000	890.00	890.00
	1643	56		30,000	534.00	
	1643	57		15,000	267.00	
	1643	58		15,000	267.00	

Defendants' Exhibit AA25 for Identification. 22597

1670	1	950,000	16,910.00	16,910.00	
1682	8	10,500	186.90	186.90	
1682	11	910,000	16,198.00	16,198.00	
1683	18	87,000	1,548.60	1,548.60	
1683	34	8,500	151.30		
1683	35	8,500	151.30		
1692	1	240,000	4,272.00	4,272.00	
1704	5	385,000	6,853.00	5,611.92	
1712	2	60,000	1,068.00		
1999	1	675,000	12,015.00	7,822.38	
2108	23	40,000	712.00	712.00	
2175	15	14,000	249.20		22598
2175	18	36,000	640.80		
2175	22	25,000	445.00		
2175	100	30,000	534.00		
		19,686,500	350,419.70	307,021.78	
2583	360	91,500	1,619.55	1,619.55	
3236	1	799,000	14,142.30	14,142.30	
		890,500	15,761.85	15,761.85	
2184	1	58,000	1,067.20	1,067.20	
					22599
Total			367,248.75		
Less Tax on Improvements billed to Astoria Co.					
2583	360		477.90	477.90	
Total Tax			366,770.85	322,305.73	

22600 Defendants' Exhibit AA25 for Identification.

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1915

Cons Gas Co. 34.10
G. O. others 65.90
100.00

	Block No.	Lot No.	Assessment	Tax Assessed	Gas
22601	239	1	105,000.00	1,963.50	1,963.50
	"	5	50,000.00	935.00	935.00
	688	21	352,000.00	6,582.40	
	689	17	465,000.00	8,695.50	
	690	12	310,000.00	5,797.00	
	"	40	10,000.00	187.00	
	"	42	10,000.00	187.00	
	"	43	10,000.00	187.00	
	"	44	10,000.00	187.00	
	"	45	10,000.00	187.00	
	"	48	10,500.00	196.35	
	"	49	10,000.00	187.00	
	"	50	10,000.00	187.00	
22602	"	51	10,000.00	187.00	
	"	52	10,000.00	187.00	
	"	53	10,000.00	187.00	
	715	51	10,000.00	187.00	
	"	59	97,000.00	1,813.90	
	716	14	37,000.00	691.90	691.90
	951	35	69,000.00	1,290.30	1,290.30
	952	7	550,000.00	10,285.00	10,285.00
	"	29	12,500.00	233.75	233.75
	"	30	31,000.00	579.70	579.70
	"	33	10,000.00	187.00	
	"	34	10,000.00	187.00	

Defendants' Exhibit AA25 for Identification. 22603

"	35	47,000.00	878.90	878.90	
953	1	851,000.00	15,913.70	15,913.70	
972	45	12,000.00	224.40		
978	1	18,000.00	336.60		
"	2	14,000.00	261.80		
"	3	14,000.00	261.80		
"	4	11,000.00	205.70		
"	5	25,500.00	476.85	476.85	
"	6	840,000.00	15,708.00	15,708.00	
979	1	1,680,000.00	31,416.00	31,416.00	
"	27	6,000.00	112.20	112.20	
982	13	843,000.00	15,764.10	15,764.10	22604
985	7	220,000.00	4,114.00	4,114.00	
"	19	7,500.00	140.25	140.25	
"	20	7,500.00	140.25	140.25	
"	39	7,500.00	140.25		
"	40	7,500.00	140.25		
987	37	152,500.00	2,851.75	2,851.75	
"	41	7,500.00	140.25	140.25	
"	42	7,500.00	140.25	140.25	
"	43	14,500.00	271.15	271.15	
"	51	8,500,00	158.95	158.95	
988	1	1,498,000.00	28,012.60	28,012.60	
989	1	447,500.00	8,368.25	8,368.25	
991	1	236,000.00	4,413.20	4,413.20	22605
"	47	56,000.00	1,047.20	1,047.20	
1070	5	98,000.00	1,832.60	1,832.60	
1089	1	2,425,000.00	45,347.50	45,347.50	
1090	23	81,000.00	1,514.70	1,514.70	
1092	7	405,000.00	7,573.50	4,970.33	
"	28	8,500.00	158.95		
"	38	5,500.00	102.85		
"	38 1/2	5,500.00	102.85		
"	39	5,500.00	102.85		
1093	9	325,000.00	6,077.50	5,586.93	
1107	7	400,000.00	7,480.00	7,480.00	

22606 Defendants' Exhibit AA25 for Identification.

	1156	45	11,000.00	205.70	
	"	46	27,000.00	504.90	
	1157	1	1,200,000.00	22,440.00	22,440.00
	1177	21	250,000.00	4,675.00	4,675.00
	1455	13	160,000.00	2,992.00	
	1457	6	310,000.00	5,797.00	5,797.00
	1474	24	15,000.00	280.50	
	1642	32	45,000.00	841.50	841.50
	"	33	50,000.00	935.00	935.00
	1643	56	31,000.00	579.70	
	"	57	15,000.00	280.50	
	"	58	15,000.00	280.50	
22607					
	1670	1	950,000.00	17,765.00	17,765.00
	1682	8	10,000.00	187.00	187.00
	"	11	910,000.00	17,017.00	17,017.00
	1683	18	81,000.00	1,514.70	1,514.70
	"	34	8,500.00	158.95	
	"	35	8,500.00	158.95	
	1692	1	240,000.00	4,488.00	4,488.00
	1704	5	385,000.00	7,199.50	5,895.67
	1712	2	52,500.00	981.75	
	1998	50	55,000.00	1,028.50	1,028.50
	"	53	7,000.00	130.90	130.90
	"	54	7,000.00	130.90	130.90
	"	55	7,000.00	130.90	130.90
22608					
	"	56	7,000.00	130.90	130.90
	1999	1	675,000.00	12,622.50	8,217.89
	2108	23	40,000.00	748.00	748.00
	2175	15	14,000.00	261.80	
	"	18	36,000.00	673.20	
	"	22	25,000.00	467.50	
	"	100	31,000.00	579.70)	
	Total		18,696,000.00	349,615.20	
	870	60	3,150,000.00	58,905.00)	20,249.21
		47	25,500.00	476.85)	
			22,071,500.00	408,997.05	*325,102.13

Defendants' Exhibit AA25 for Identification. 22609

2583	360	91,500.00	1,775.10	1,775.10
3236	1	800,000.00	15,520.00	15,520.00
	Total	891,500.00	17,295.10	17,295.10
2184	1	58,000.00	1,113.60	
	Total Debits		427,405.75	
2583	360	Cr billed to Astoria	523.80	523.80
		Cr Difference between amt. of bills & amt. chg'd. to "Taxes"	.20	22610
	Grand Total	19,845,500.00	426,881.75	341,873.43

*This figure is 20¢ in excess of Tax Summary. Probably offset in Discount Credit.

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES 22611

1916

G. O. Cons. Gas Co. 32.86 others 67.14

100.00

Block No.	Lot No.	Assessment	Tax Assessed	Gas
239	1	113,000	2,305.20	2,305.20
239	5	56,500	1,152.60	1,152.60
689	17	455,000	9,282.00	

22612 Defendants' Exhibit AA25 for Identification

	690	12	320,000	6,528.00	
	690	40	10,000	204.00	
	690	42	10,000	204.00	
	690	43	10,000	204.00	
	690	44	10,000	204.00	
	690	45	10,000	204.00	
	690	48	10,500	214.20	
	690	49	10,000	204.00	
	690	50	10,000	204.00	
	690	51	10,000	204.00	
	690	52	10,000	204.00	
22613	690	53	10,000	204.00	
	691	11	200,000	4,080.00	
	715	51	(10,000	204.00	
	715	59	(97,000	1,978.80	
	716	14	37,000	754.80	754.80
	870	47	21,000	428.40)	
				)	15,558.68
	870	60	2,300,000	46,920.00)	
	951	35	66,000	1,346.40	1,346.40
	952	7	510,000	10,404.00	10,404.00
	952	29	11,000	224.40	224.40
	952	30	31,000	632.40	632.40
	952	33	9,700	197.88	
22614	952	34	9,700	197.88	
	952	35	45,000	918.00	918.00
	953	1	851,000	17,360.40	17,360.40
	972	45	9,500	193.80	
	978	1	16,000	326.40	
	978	2	13,000	265.20	
	978	3	13,000	265.20	
	978	4	10,000	204.00	
	978	5	23,500	479.40	479.40
	978	6	840,000	17,136.00	17,136.00
	979	1	1,953,500	39,851.40	39,851.40
	979	27	6,000	122.40	122.40

Defendants' Exhibit AA25 for Identification 22615

982	13	815,000	16,626.00	16,626.00	
985	7	213,000	4,345.20	4,345.20	
985	19	6,500	132.60	132.60	
985	20	6,500	132.60	132.60	
985	39	7,000	142.80		
985	40	7,000	142.80		
987	37	147,000	2,998.80	2,998.80	
987	41	7,000	142.80	142.80	
987	42	7,000	142.80	142.80	
987	43	13,000	265.20	265.20	
987	51	8,500	173.40	173.40	
988	1	1,517,500	30,957.00	30,957.00	22616
989	1	447,500	9,129.00	9,129.00	
991	1	236,000	4,814.40	4,814.40	
991	47	56,000	1,142.40	1,142.40	
1070	5	98,000	1,999.20	1,999.20	
1089	1	2,425,000	49,470.00	49,470.00	
1090	23	81.000	1,652.40	1,652.40	
1092	7	423,500	8,639.40	5,799.58	
1092	28	8,000	163.20		
1092	38	5,500	112.20		
1092	38 1/2	5,500	112.20		
1092	39	5,500	112.20		
1093	9	335,000	6,834.00	6,298.83	
1107	7	400,000	8,160.00	8,160.00	22617
1156	45	11,000	224.40		
1156	46	27,000	550.80		
1157	1	1,550,000	31,620.00	31,620.00	
1177	21	290,000	5,916.00	5,916.00	
1455	13	179,000	3,651.60		
1457	6	310,000	6,324.00	6,324.00	
1474	24	17,000	346.80		
1642	32	45,000	918.00	918.00	
1642	33	48,000	979.20	979.20	
1643	56	31,000	632.40		
1643	57	15,000	306.00		

Defendants' Exhibit AA25 for Identification

22618	1643	58	15,000	306.00	
	1670	1	1,061,000	21,644.40	21,644.40
	1682	8	10,000	204.00	204.00
	1682	11	910,000	18,564.00	18,564.00
	1683	18	81,000	1,652.40	1,652.40
	1683	34	8,000	163.20	
	1683	35	8,000	163.20	
	1692	1	240,000	4,896.00	4,896.00
	1704	5	385,000	7,854.00	6,431.64
	1712	2	52,500	1,071.00	
	1998	50	55,000	1,122.00	1,122.00
22619	1998	53	7,000	142.80	142.80
	1998	54	7,000	142.80	142.80
	1998	55	7,000	142.80	142.80
	1998	56	7,000	142.80	142.80
	1999	1	795,000	16,218.00	11,412.97
	2108	23	53,000	1,081.20	1,081.20
	2175	15	14,000	285.60	
	2175	18	38,000	775.20	
	2175	22	25,000	510.00	
	2175	100	3,100	632.40	
			21,751,900	443,738.76	365,965.30
	2583	360	90,000	1,881.00	1,881.00
22620	3236	1	1,000,000	20,900.00	20,900.00
			1,090,000	22,781.00	22,781.00
	2184	1	64,000	1,331.20	
	Total Taxes		22,905,900	467,850.96	388,746.30
	Cr. Taxes Rebilled				
	715	51 & 59			
		J. J. Riordan Inc.,		2,182.80	
	2583	360 Astoria		532.95	532.95
				2,715.75	
		Net Credit		465,135.21	388,213.35

Defendants' Exhibit AA25 for Identification 22621

CONSOLIDATED GAS CO.

SUMMARY OF REAL ESTATE TAXES

1917

G. O. Cons. Gas Co. 32.86
others 67.14
100.00

Block No.	Lot No.	Assessment	Tax Assessed	Gas	
239	1	113,000	2,282.60	2,282.60	22622
239	5	53,000	1,070.60	1,070.60	
690	12	220,000	4,444.00		
690	40	12,500	252.50		
690	42	12,500	252.50		
690	43	12,500	252.50		
690	44	12,500	252.50		
690	45	12,500	252.50		
690	48	13,000	262.60		
690	49	12,500	252.50		
690	50	12,500	252.50		
690	51	12,500	252.50		
690	52	12,500	252.50		
690	53	12,500	252.50		22623
691	11	212,000	4,282.40		
715	59	125,000	2,525.00		
716	14	35,000	707.00)		
870	47	36,000	727.20)	15,505.71	
870	60	2,300,000	46,460.00)		
951	35	66,000	1,333.20	1,333.20	
952	7	510,000	10,302.00	10,302.00	
952	29	11,000	222.20	222.20	
952	30	31,000	626.20	626.20	
952	33	9,500	191.90		
952	34	9,500	191.90		

22624 Defendants' Exhibit AA25 for Identification

952	35	45,000	909.00	909.00
953	1	851,000	17,190.20	17,190.20
972	45	9,500	191.90	
978	1	16,000	323.20	
978	2	13,000	262.60	
978	3	13,000	262.60	
978	4	10,000	202.00	
978	5	23,500	474.70	474.70
978	6	840,000	16,968.00	16,968.00
978	1	1,953,500	39,460.70	39,460.70
979	27	6,000	121.20	121.20
982	13	815,000	16,463.00	16,463.00
985	7	213,000	4,302.60	4,302.60
985	19	6,500	131.30	131.30
985	20	6,500	131.30	131.30
985	39	7,000	141.40	
985	40	7,000	141.40	
987	37	147,000	2,969.40	2,969.40
987	41	7,000	141.40	141.40
987	42	7,000	141.40	141.40
987	43	13,000	262.60	262.60
987	51	8,500	171.70	171.70
988	1	1,517,500	30,653.50	30,653.50
989	1	447,500	9,039.50	9,039.50
991	1	180,000	3,636.00	3,636.00
991	47	56,000	1,131.20	1,131.20
1028	38	400,000	8,080.00	8,080.00
1070	5	98,000	1,979.60	1,979.60
1089	1	2,425,000	48,985.00	48,985.00
1090	23	81,000	1,636.20	1,636.20
1092	7	468,500	9,463.70	6,268.27
1092	28	9,000	181.80	
1092	38	6,000	121.20	
1092	38½	6,000	121.20	
1092	39	6,000	121.20	
1093	9	360,000	7,272.00	6,683.20

22625

22626

Defendants' Exhibit AA25 for Identification 22627

1107	7	400,000	8,080.00	8,080.00	
1156	45	10,500	212.10		
1156	46	27,000	545.40		
1157	1	1,550,000	31,310.00	31,310.00	
1177	21	290,000	5,858.00	5,858.00	
1455	13	179,000	3,615.80		
1457	6	310,000	6,262.00	6,262.00	
1474	24	17,000	343.40		
1642	32	50,000	1,010.00	1,010.00	
1642	33	48,000	969.60	969.60	
1643	56	31,000	626.20		
1643	57	15,000	303.00		22628
1643	58	15,000	303.00		
1670	1	1,061,000	21,432.20	21,432.20	
1682	8	10,000	202.00	202.00	
1682	11	910,000	18,382.00	18,382.00	
1683	18	77,000	1,555.40	1,555.40	
1683	34	7,000	141.40		
1683	35	7,000	141.40		
1692	1	240,000	4,848.00	4,848.00	
1704	5	385,000	7,777.00	6,368.59	
1712	2	52,500	1,060.50		
1998	50	55,000	1,111.00	1,111.00	
1998	53	7,000	141.40	141.40	
1998	54	7,000	141.40	141.40	22629
1998	55	7,000	141.40	141.40	
1998	56	7,000	141.40	141.40	
1999	1	795,000	16,059.00	11,290.70	
2108	23	53,000	1,070.60	1,070.60	
2175	15	14,000	282.80		
2175	18	38,000	767.60		
2175	22	25,000	505.00		
2175	100	31,000	626.20		
2184	1	64,000	1,324.80		

Defendants' Exhibit AA25 for Identification

2583	360	72,500	1,508.00	1,508.00
3236	1	1,000,000	20,800.00	20,800.00
	Total 1917 Taxes		461,538.50	391,897.17
	Less Credits per Schedule		6,921.58	
	Total Tax per Ledger a/c		454,616.92	391,897.17

CONSOLIDATED GAS CO.

1917 Taxes

Credits

Block No.	Lot No.		Assessment	Tax Assessed	Gas
716	14	Sold to N. Y. Edison Co.	35,000	707.00	
1070	5	Sold to Cons. Tel. & Elec. Co. 2nd half paid by them	49,000	989.80	989.90
1156	45/46	5/12ths Tax chg'd to Doty Demos Co.	15,625	315.63	
715	59	Tax billed to J. J. Riordan Co.		2,525.00	
1999		132nd St. Property sold to 5th Ave. Coach Co. Tax 2nd half chg'd to them	118,027.23	2,384.15	
				6,921.58	

Total credits (See p. 4)

By Mr. Chambers:

Q. You allocated the taxes between what you call "Gas" and "NonGas." You did that, did you, you and your assistant?

A. It was done under my direction, yes.

Q. Where did you get your information for doing that, during these years?

A. Based upon the list of property claimed to be used in the gas business by the company as shown by Exhibit 178, and information furnished to me by the engineers of the company as to the properties used or not used in the various years from 1906 to 1917. 22634

Q. Was that Mr. Alrich?

A. Yes, sir.

Q. That was oral information that he conveyed to you?

A. He subsequently reduced his information—I made notes at the time—and he subsequently reduced it to graphic chart.

Q. For instance, you would strike a lot and block number, and you were in doubt whether that was "Gas" or "Non Gas"—you would go to Mr. Alrich, would you?

A. I did not proceed in that way at all.

Q. How did you proceed? 22635

A. I had him give me a list of the properties that were used, of the changes in Exhibit 178 from year to year.

Mr. Ransom: May the record now show that Mr. Chambers has Mr. Teele's working papers and is examining them?

Mr. Chambers: May the record show the truth, to wit, that Mr. Chambers has Defendants' Exhibit AA for identification, so marked by the Master.

Mr. Ransom: The same being Mr. Teele's working papers.

22636 Arthur W. Teele, Cross.

Mr. Chambers: I have no objection to the truth.

Q. What was the basis of your allocation, the percentage, or how did you divide up the property?

A. I don't understand your question.

Q. How did you allocate it, on what basis?

A. Allocate what?

Q. Between "Gas" and "Non Gas."

A. I have just described how I allocated it.

The Master: Suppose part of a piece of property was used for "Gas" and part for "Non Gas" included in one tax assessment, what did you do?

22637

The Witness: Then I have apportioned it on the basis given to me by the engineers.

Q. That is parcels vary then?

A. There are some small apportionments I think.

Q. Can you give me the different classes?

A. You have my working papers.

Q. I have just this Exhibit AA25 for identification.

A. You have my working papers on taxes.

Q. That is all you have, all your working papers, this exhibit for identification?

A. All my working papers on what?

Q. Taxes—I mean, have I now all your working papers on taxes, this Exhibit AA25, because that is all I have?

22638

A. I think that covers all of the working papers on taxes, real estate taxes, for the years 1906 to 1917.

Q. Now, on this exhibit, take Block No. 1999, Lot No. 1. The tax was $5,176.15, and you put $2,951.81 in "Gas," and $2,224.34 in "Non Gas." How did you allocate that particular one, for illustration?

The Master: Have you a memorandum that you want to develop as to this item?

Mr. Chambers: I have a memorandum generally that he allocated them and that his papers up

there do not show how he did it. He hasn't anything to show me except in his mind.

Mr. Ransom: He showed you some papers that I saw him show you.

Mr. Ransom: You can see my notes if you want.

The Master: No, I don't want to see your notes. As I understand it, the point of your inquiry is that this exhibit does not show, and nothing that you were able to see from his office shows how he reaches a particular figure.

Mr. Chambers: That is right. 22640

The Master: I will let you go into that.

Mr. Chambers: He told me generally that he allocated it on verbal information from Mr. Alrich.

A. I don't seem to have any memorandum here which indicates how that apportionment was made. I did have before me at the time the apportionment was made information upon which to base such apportionment. Whether it was reduced to writing at that time, or whether I have any further working papers which will refresh my memory in the matter I cannot say without going through my other working papers. I had some basis before me at that time for making 22641 this apportionment.

Q. But you haven't any here, and none is shown on that exhibit?

A. That is not prepared as an exhibit, and none is referred to on this exhibit.

Q. Pick out anyone you want, pick out anyone on the list anywher and tell me how you allocated it. I will let you select any one, and see if you can tell me

A. I will say again, Mr. Chambers, that I have not before me any written memorandum showing how this apportionment was made. I did have information be-

fore me at the time this apportionment was made, and undoubtedly have now in my other working papers.

Q. I hand you this exhibit for identification, and ask you to select from beginning to end any tax where you have allocated it, and tell the Master exactly how it was done, the basis upon which it was done. You make the selection.

The Master: I think it is quite clear that the witness cannot do it. You cannot do it?

The Witness: I haven't the information before me.

22643

The Master: I think it is perfectly clear, too, that Mr. Teele made this allocation upon statements made to him by Mr. Alrich as to properties used in the gas making business from year to year.

Mr. Chambers: I think we have gone far enough to show that we cannot find out how he did it.

The Witness: Mr. Chambers, you made no effort the other night to find out how this apportionment was made.

Mr. Chambers: Now, Mr. Teele, I will let the Master see if I did not. Here are my notes made the other night.

22644

The Master: You need not show me your notes. Mr. Teele, if Mr. Chambers had asked you the other night you would have had to get the information from Mr. Alrich? You didn't have it, did you?

The Witness: I am not clear at this moment whether I have any written memoranda in regard to the apportionment on these various pieces of property.

Mr. O'Brien: I object to Mr. Moeran producing information while the witness is under cross-examination and being questioned by your Honor.

The Master: The objection is overruled. What is Mr. Moeran giving you, Mr. Teele?

The Witness: He has given me a memorandum of our own which is entitled "Memorandums *Re* Certain Real Estate Taxes, 1906 to 1907 Inclusive."

The Master: Does that help us any?

The Witness: This gives a division as between "Gas" and "Non Gas," but it does not give—

The Master: What I am going to do is this: As to 1918, you produced certificates given to you 22646
by engineers certifying as to what part of a house or what part of a piece of property was used by somebody other than as a gas making proposition —do you remember that?

The Witness: Yes.

The Master: Did you get similar certificates as to each year prior to 1918?

The Witness: No, I got the information. We made memoranda, we did not get certificates.

The Master: Am I right in this impression that I have, that you would ask Mr. Ulrich whether, taking 1906, the same properties were used, or there was any change in 1907, and he would tell 22647
you and you would make a memorandum of it?

The Witness: I went through it property by property, and he subsequently prepared for me—I asked him to put it in some tabular form so I might have it to refer to, and he prepared for me this graphic chart which shows the property in and out of the gas business between 1906 and 1919.

The Master: Isn't that what Mr. Chambers is trying to get?

The Witness: I don't know, he didn't look at it the other night.

The Master: See if this is what you want (showing paper to Mr. Chambers).

The Witness: It does not show the apportionment of properties between the two.

Mr. Chambers: That looks like a sheet of music.

The Witness: It is like any graphic chart.

The Master: Next question.

Mr. Chambers: You have got my point, haven't you?

The Master: I think so. Go ahead.

22649 Mr. Chambers: My point is, he allocated this, and there is no way by which we can find out how he did it.

The Witness: I can sit down with your accountant, Mr. Chambers, and show him exactly how the apportionment was made on each piece of property.

The Master: But the answer to that is—of course that computation can be made, but the answer to it is that when I have computed, taking any particular piece of property, and I find a total tax of $1,000, and I find $750 is charged to gas making, and $250 to non-gas business, it is quite

22650 apparent to me that one-quarter of it you were told was not used in the gas-making business.

The Witness: Yes.

The Master: In order to have made that computation Mr. Alrich told you that one-quarter of it was non-gas, is that right.

The Witness: That is right.

Q. Now, special franchise, included in these taxes year by year. I think you told me these are the actual payments for special franchise taxes?

A. So far as special franchise taxes have been paid, based upon the actual settlement.

Q. That is they include payments of special franchise taxes up to 1912, you think they are the tax bills? A. So far as the special franchise taxes have been settled this includes the actual settlement.

The Master: Have they been settled up to 1912?

The Witness: If they have not been settled then this includes the assessment.

Q. Mr. Teele, as to special franchise taxes, you did find from your examination that the actual assessments in the years back, that is included in this, were reduced by settlements made, you found that the company had succeeded in reducing the actual assessment for a number of years? 22652

A. I do not recall now.

Q. You do not recall that they got any reduction at all?

The Master: Won't that be stipulated, Judge Ransom?

Mr. Ransom: What?

The Master: That reduction in the franchise tax was obtained for certain of the years.

Mr. Ransom: There were certain reductions, and those are shown in the exhibits, which are the reduced figures. 22653

The Master: I know that they were reduced on the equalization basis anyhow. I know that.

The Witness: All reductions made are given effect on this statement.

The Master: But Mr. Chambers wanted to point out on the record and have it clear that in certain of those years where you have taken the amount of the bill, I must have in mind that that bill may be reduced before it is finally paid, because in other years reductions were obtained, and I wanted Judge Ransom to concede that fact so it would be there.

22654 Arthur W. Teele, Cross.

Q. Have you got a memorandum before you there that shows January, 1906, the assessment, and then what it was settled for, so you could give it to us quick?

A. On special franchise tax?

Q. Yes.

A. No. The memorandum I have before me has the analysis of taxes, copy of which I furnished to Mr. Clark.

Q. Have you anything there so you can give the Master the assessment for 1906, and what was paid?

22655 A. I think I have in my papers, but not before me.

The Master: Ask Mr. Moeran if he has anything about that.

Mr. Chambers: I think it is important to show that, if that continues, that they cut down these assessments for the years that are not paid.

Mr. Ransom: The point is that it did not continue.

Mr. O'Brien: I call the Court's attention to the fact that Mr. Moeran is talking to the witness, when I understand he is not to say anything to the witness.

The Master: But the record shows that I told

22656 him to.

Q. Are you able to give it now?

A. Yes.

Q. All right, 1906 assessment, and then what it was settled for?

A. The assessment for 1906 was $471,769.10.

The Master: That is the amount of the tax levied?

The Witness: That is the original levy.

Q. And the settlement?

A. The settlement was $236,919.78.

Q. 1907?

A. The original assessment was $499,550.63.

Q. The settlement?

A. $237,895.40.

Q. Next year, 1908?

A. The original assessment, $542,973.14.

Q. And the settlement?

A. $258,574.01.

Q. 1909?

A. Original assessment $335,624.78.

Q. Settlement?

A. $268,822.

Q. 1910?

A. Original assessment $351,606.36. 22658

Q. Settlement?

A. $284,779.80.

Q. 1911?

A. Original assessment $355,562.93, settlement $288,343.15.

Q. 1912?

A. Original assessment $349,713, settlement $299,754.

Q. 1913?

A. There is no settlement in 1913.

The Master: Mr. Chambers was right about that settlement, it included 1912, but did not run thereafter?

The Witness: Yes. 22659

Mr. Chambers: You see how substantial those are

Mr. Ransom: There has been some as the outcome of litigation subsequent to that time.

Q. Real estate of corporations: You have included in your taxes real estate of corporations?

A. Yes, sir.

Q. No, you found all of the taxes against real estate of corporations of this company was cancelled up to 1912, by a court order, didn't you?

22660 Arthur W. Teele, Cross.

A. No. I found that the company had paid certain taxes designated as real estate of corporations.

Q. Oh, little small taxes?

A. Very small.

Q. But the bulk of it was all cancelled?

A. 1906 and 1907, 1910, 1911 and 1912, all other taxes assessed as real estate of corporations up to and including 1912, had been cancelled.

Q. It amounted to a lot of money, and you of course have not included those because they were cancelled?

22661 A. No, I have not.

Q. You only included the items of small taxes up to that time?

A. I took the actual taxes as paid, so far as settlement. When not settled, I have included in this statement the taxes assessed against the company as not settled.

Q. After 1912, the taxes have not been paid, if that is when they are assessed. What years are they, the years that they are assessed since 1912?

A. From 1913 on.

Q. And those taxes have not been paid, and so far as you know you don't know whether they are in litigation or not?

22662

A. No.

Q. Or whether they have been cancelled?

A. No, I do not.

Q. Now, just to go back, did you inquire to see if the franchise taxes for 1913, 1914 and 1915 had been settled by the company?

A. The unpaid taxes at December 31st, 1918, of which I read into the record to other data, shows what taxes remained unpaid at December 31, 1918.

Q. But I am asking for the franchise taxes for 1913, 1914 and 1915, if they have not now been actually settled by a less sum than the assessment?

A. You mean since the 1st of January?

Q. I mean simply within the last month or two?

A. That I don't know.

Q. Well, when did you leave off, the 1st of January? I mean your examination does not go beyond January, 1919, on taxes?

A. For what?

Q. For franchise taxes?

A. My examination for the purposes of stating income pays no attention to whether the settlement has been made since, except so far as these taxes are concerned. 22664

Q. Well now, here is what I am getting at. Suppose these three franchise taxes I am telling you about, 1913, 1914 and 1915 have not been settled within the last three months, then you have not put in the actual taxes for this time?

A. If they have been settled since the 1st of January, 1919, no.

Q. Well, you will concede that if they have been actually settled, then you will have to go back and put in the actual payments?

(No answer.)

Q. Now, the personal property tax is included in this? 22665

A. Yes.

Q. There is no tax for 1917, personal property?

A. Right.

Q. 1908 none?

A. Right.

Q. 1916 none?

A. Right.

Q. 1917 none?

A. Right.

Q. But there are personal property taxes for other years?

A. Right.

Q. Did you take the actual payments?

A. Settlements.

Q. Settlements for all periods?

A. Yes.

Q. Have they all been settled down to date?

A. I think 1918 has not been fully settled. I think there is a small amount still in dispute.

Q. And do you know what personal property it was on?

The Master: The Master knows. He knows what the statute is.

22666 Mr. Ransom: All of this detail, if the Court please, has been made up in a schedule of taxes which has been furnished to Mr. Frank and which is in the hands of the defendants, or copies of it.

The Master: Next question.

Q. The gross earnings tax, you allocated that tax between gas and non-gas for each year?

A. On the same basis as I did in 1918.

Q. So you would make the same answer here as to what allocation that you made them in the record in answer to questions?

A. Yes.

22668 Q. You have adjusted this by some deductions. What do you mean by that?

A. What do you mean by that?

Q. Well, were there some deductions?

A. From what?

Q. I have got a note here, it says "Adjusted by deductions."

The Master: Well, he deducted the amount of operating revenue, I suppose, from the gross revenue.

The Witness: The gross earnings tax.

The Master: Did you take the gross revenue and deduct the non-operating revenue from it?

The Witness: I took the gross earnings tax settlement based upon a return made by the company and allocated in terms.

Q. When it was settled, you took the actual settlement?

A. Surely.

Q. Instead of the tax?

A. Well, I don't know that the actual settlement differs any from the return. 22670

The Master: It could not have.

The Witness: I don't know.

The Master: The matter of gross earnings is not subject to much dispute.

Q. Now, the privilege to maintain two tracks across East 21st Street, Avenues A and B, that was taxed from 1906 to 1909?

A. Yes.

Q. You took actual payment, did you, there?

A. Yes.

Q. Capital stock tax, the figure capital stock tax you have that for 1917 only?

A. 1917 and 1918. 22671

Q. Well, 1918, you have already testified about?

A. Yes.

Q. And the 1917 capital stock tax Federal is the same as 1918?

A. The same method of apportionment.

Q. And then, whatever you said about 1918 applies to that 1917 capital stock tax?

A. Yes.

Q. Now excess dividends. Did you set up the actual tax paid there?

A. No.

Q. You did not?

A. Excess dividends?

Q. Yes.

A. No. As I explained to you, we took the difference between the revenues and expenses before charging in excess dividends or federal income taxes and determined the net result from each year, and we found the ratio between that net result and the total earnings of the company, and we apportioned the excess dividend tax and the federal income tax on the basis of the ratio existing between that net re-
22673 sult from gas operations and the total earnings of the company in each year.

Q. Can you give me that tax year by year, the amount that you have allowed?

A. In 1906, the excess dividend tax, I will give you that.

Q. As you have set it up, as you computed it?

A. The excess dividend tax, $42,705.60; nothing in 1907, 1908, 1909 and 1910, and 1911, $24,357.22; 1912, $20,111.03; 1913, $19,224.66; 1914, $10,989.80; 1915, $22,368.88; 1916, $25,450.21; 1917, $15,640.25. The federal income tax, nothing, of course, in 1906, 1907 and 1908, because it was not effective until
22674 1909.

Q. Well, I see on the dividend tax, I judge now that the excess dividend tax is the tax that you found on the gross earnings bill, it is a state tax?

A. It is a state tax assessed on income in excess of four per cent.

Mr. Chambers: I don't mind telling you that we claim that it goes out.

The Master: I think you are right about that. I am inclined to agree with you on that.

Mr. Chambers: That is why I have asked the amount, so you can work that out. First comes

the question of whether these amounts are right under his method, and second, whether they all go out, or what amount is to go out.

Mr. Ransom: Well, we will wish to be heard, of course, on that.

The Master: Yes. I say I am inclined to agree with him.

Mr. Chambers: You see, that is their amount they have to concede, and our amounts may be different.

Q. Now, federal income?

A. Commencing in the year 1909? 22676

A. We have included [illegible]nt of $20,897.83; in 1910, $20,517.22; in 1911, $20,650.49; in 1912, $16,233.63; in 1913, $27,350.47; in 1914, $13,803.57; in 1915, $18,728.68; in 1916, $52,564.79; in 1917, $51,768.78.

The Master: Those amounts are included in these tax items, are they?

The Witness: They are included in these tax items.

Mr. Chambers: I understood counsel on the other side conceded those were not to go in.

The Master: Don't waste any argument with 22677
that. We have the figures here, and the witness says they were included in these tax items, and I can take them out.

Mr. Ransom: I said they were not in 1918, because there was nothing to figure it on, or 1919.

Q. Just give us the method, how you arrived at this. First of all, I ask you—you made the computation and the apportionment?

A. Yes.

Q. How did you do that?

A. I took the total earnings of the company for

22678 Arthur W. Teele, Cross.

each year as shown by their income account for adjusting the overlaps and then took the difference between the gross earnings, of the earnings here and expenses from the gas business before charging either the excess dividends or the federal income tax, then I took the ratio existing between the net result from the gas business and the total operations for each year and applied that ratio to the amount of excess dividend tax paid and the federal income tax paid.

Q. Now, interest on taxes, what interest on what taxes have you included? Say, for instance, inter-
22679 est on excess dividend tax unpaid?

A. No.

Q. Well, what taxes unpaid?

A. Interest on unpaid real estate tax; interest on special franchise tax; interest on real estate corporations tax; interest on personal tax; interest on gross earnings tax.

The Master: You better give us the amount of those interest charges so we can have them on the record. How much did you charge for interest?

The Witness: I am preparing this schedule in order to give a copy to Major Clark.

22680 The Master: Well, give me that. I want to get Mr. Chambers out of the way.

The Witness: Do you want the interest on each item?

The Master: No, the total amount of interest included in each year, if you have it.

The Witness: The total interest on taxes in 1906, $95,195.08; 1907, $120,657.67; 1908, $127,629.35; 1909, $147,713.17; 1910, $70,318.60; 1911, $51,707.36; 1912, $75,861.48; 1913, $101,718.96; 1914, 134,048.91; 1915, $79,065.14; 1916, $53,992.13; 1917, $69,028.94.

The Master: Next question.

Q. Your interest on taxes unpaid of real estate corporations, was as high there sometimes. The interest in that alone was over $48,000 there on one occasion; do you see that?

A. The interest on real estate of corporations in the year 1918, was $48,435.56. In any year prior to that the highest amount was $38,438.18.

Q. For that very same tax, 1916, it was $29,131.07?

A. That is right.

The Master: While the interest was $38,438.18?

Mr. Chambers: What? 22682

The Master: When the interest was $38,438.18?

By the Master:

Q. What was the real estate of corporations tax in 1916?

A. $29,131.07.

Q. What was the interest on that?

A. That is the interest itself.

Mr. Chambers: No, he wants to know what was the tax on which that was the interest.

Q. What was the tax?

Mr. Chambers: That may be cancelled, too, sometimes.

The Witness: No, it is not. 22683

Q. What was the tax on which that $29,131.07 was figured; do you remember?

Mr. Chambers: Or the $48,435.56?

A. If we have anything in the working papers which would show the amount of the tax on which that was calculated I could tell.

Q. Well, you have nothing here to show it?

A. I have nothing here to show.

The Master: All right, he cannot give us that.

Mr. Chambers: You asked about the amount

on which the interest of $29,131.07 was figured, on real estate of corporations.

The Master: He said he could not give it to me.

By Mr. Chambers:

Q. Can you give that now?

A. No, I have not the data here.

Q. Interest on consumers' deposits: Did you take that right off the books?

A. Yes. I believe there are no adjustments to it.

22685 The Master: Were those actual amounts paid from year to year?

The Witness: Yes. I think there are no adjustments. Those are the amounts paid as shown by the company's books.

Q. What rate of interest did you use, Mr. Teele?

A. I do not understand your question.

Q. What rate of interest on the deposits did you set up?

The Master: Did the company set up?

A. What the company paid?

The Master: What was it—what rate?

The Witness: They pay six per cent per an-

22686 num, my recollection is.

Q. Where did you get the twelve per cent that you spoke to me about?

A. I stated that heretofore, that the actual payments of interest on consumers' deposits withdrawn averaged twelve per cent; that is, the amounts withdrawn indicate that they have been in the company's possession for two years, so that they paid out twelve per cent of deposit in addition to the deposit on withdrawal.

Q. Did you look to see whether these deposits were out earning any money and credit that? Did you

look to see if the company had invested these deposits anywhere?

A. I did not, because it would be impossible to ascertain.

Q. So you gave no credit for any money that these deposits may have earned, in bank or otherwise?

A. I did not.

Q. Uncollectible bills: For 1906, 1907 and 1908, those were charged up on the books at the rate of a dollar, and afterwards were re-adjusted, or did you do that—to 80 cents?

A. Subsequently, upon the settlement—the basis of 22688
the settlement was determined and consumers settled their bills at 80 cents. The amount which had been set up in suspense by the company, amounting to something over $150,000, was credited back, and we apportioned that amount which was credited back on an arbitrary basis. When we found that it had been credited in the accounts, we inquired of the company's accounting officers whether they had any information on the matter which would enable us to properly allocate that adjustment, and they informed us at the time that they had made an investigation of it for the purposes of making up a statistical statement of their own, and that they had finally concluded that a 22689
fair allocation of it would be on the basis of forty and twenty per cent over the three years of 1906, 1907 and 1908; and there being no other data available for us to use, we followed the same method of apportionment. I think that is the only adjustment on uncollected bills.

Q. Cost to distribute: Can you give me the amount that you used in the cost to distribute for district superintendence, supplies and expense each year? Have you that set up?

A. I certainly have not.

Q. You cannot tell me what you used each year for that item?

A. That particular item.

Q. Yes.

A. Not without going back through my working papers and determining the amounts shown in the ledger accounts in each year, and then such adjustments as may affect those particular items in the subsequent years. I have not prepared such a statement.

By the Master:

Q. Mr. Teele, can you say whether the books
22691 throughout the years from 1907 to 1918 have been kept in the same form and in the same way, the same chargers and credits and debits?

A. The classification of accounts in 1906, 1907 and 1908 are different from those in the subsequent years. Subsequent to 1908 they were kept in accordance with the prescribed classification of the Public Service Commission.

Q. I see. So beginning with 1909 the books have been kept in precisely the same way?

A. As before the classification was made, and with possibly some slight variations; the same kind of charges and the same class of accounts was maintained
22692 throughout. The same system of accounting and the same methods are pursued right straight through.

Mr. Ransom: Mr. Brundage has testified, as you will recall, as to the years before the uniform system of accounts was inaugurated that the accounts were kept in practically the same way, so there was no trouble in standardizing them.

The Witness: The method of accounting in 1906, 1907 and 1908, as I now recall, was precisely the same as it was subsequently.

By Mr. Chambers:

Q. District superintendence, supplies and expenses. For these various years you allocated that, did you, as between gas and non-gas?

Mr. Ransom: I object to the question.

The Master: I will allow it.

Mr. Ransom: Was the objection overruled?

The Master: Yes.

Mr. Ransom: Exception.

A. I followed the classification set down in the Public Service Commission regulations.

Q. Did you allocate it between gas and non-gas? 22694

A. Between gas and non-gas?

Q. Yes—for this district superintendence, supplies and expenses?

A. I do not know what you mean by allocating it between gas and non-gas. There is not any such distinction made in the accounts, and I do not know of any such distinction prescribed by the Public Service Commission.

Q. Then you do not know whether you did or did not as to that?

A. Well, we did not.

Q. Take the salaries general office, can you give me the amount you included each year for that? 22695

Mr. Ransom: Objected to. That is shown by the books and the books are in evidence.

The Master: I will let the witness say. I take it Mr. Chambers wants to point out that this witness cannot segregate the items in this Exhibit 366.

Mr. Ransom: Of course he can segregate that; it is simply a question of how much detail you want to put on the record.

The Master: He did not go into that. You did not go into that.

The Witness: I did not undertake to segregate any of the accounts.

The Master: I think you have made your point without taking all the items.

Q. Salaries General Office. Did you make any attempt to allocate that as between non-gas assets and gas assets?

A. I will repeat, I have not attempted to allocate any of the accounts—to segregate any of the accounts.

Q. Is it a fact that the general officers, like Mr.
22697 Cortelyou and some of the others devote some of their time, surely, to looking after the assets of the corporation that are not invested in the gas business?

A. You are stating that.

Q. Like, for instance, taking care of the stock of some other company like the Standard?

The Master: I think that is argumentative.

Mr. Ransom: It has been fully covered.

Q. You have not gone into that at all?

A. I have not attempted to segregate or divide the accounts from 1906 to 1917. I have grouped them as to cost of production and cost of distribution.

Q. Take the cost of distribution, can you give me
22698 any of the amounts that you used each year, like for meter and installation work, work on consumers' premises, repairs on street mains, repairs on services, repairs on meters, repairs on buildings, repairs on tools, repairs on gas appliances?

The Master: And the other subdivisions in Exhibit 364.

A. Why, yes, I could go through my working papers and state the amounts item by item as they appear on the ledger accounts.

By the Master:

Q. For each year?

A. For each year.

Q. But counsel can get that by referring to the ledger?

A. He can get that by referring to the ledger and by referring to the adjustment entries which were made subsequent to the closing of the accounts.

Mr. Ransom: Which are all in the reports of the Commission, kept under these headings.

Q. You made some adjustments of these accounts, did you not?

A. I did.

Q. Can you tell us the ones that you adjusted and how you adjusted them? 22700

A. Yes.

Q. Will you do so?

A. There is a hundred and odd of them.

The Master: Then I will not take them. I thought that was one of the things that counsel would look at, those adjustment items.

The Witness: But which they did not do.

Mr. Chambers: Exception. I think we ought to have the same kind of information that we had here on the record.

The Master: No.

Mr. Chambers: Suppose I did look at them.

The Master: Then if you found out any point you wanted to make I would let you ask him. 22701

Mr. Chambers: I would like to ask him as to each one of them.

The Master: Or you can have Mr. Teele prepare a statement for you, as Mr. Clark had.

Mr. Chambers: But suppose he did prepare a statement, I want in the record the amount he used for the different items and how he adjusted them—in the record.

By the Master:

Q. Can you make that statement up by Monday?

A. I do not think I can, by Monday. I have it in preparation now.

Q. It is in preparation?

A. It is in preparation.

Q. Is that one of the things that Mr. Clark has asked for?

A. It is not one of the things Mr. Clark asked for, but I am preparing schedules showing what is comprised in each of the accounts—in each of the amounts in each year.

The Master: I will ask Judge Ransom to have
22703 some copies of that made and furnish them to the other side, and I shall ask Mr. Teele to come back before the case is finally in to identify that tabulation or statement.

By Mr. Chambers:

Q. How about cost of distribution, are you making up the same kind of tabulation?

A. The same kind of tabulation.

The Master: Showing the adjustments?

The Witness: That tabulation will give the amount of the ledger account which is the basis of this schedule, and to that will be added such adjustments as we have made from subsequent
22704 years, showing what they are.

Q. Now, "Rents of Gas Appliances"—you took your figures for that right from the books with the exception of one adjustment which was made in 1908?

A. It is as shown by the books with the exception of one adjustment made in 1908.

Q. What was that adjustment?

A. There was a balance left in suspense account that was written off in 1908 of $16,066.41, and that we have added to the amount shown in the account of rents from gas appliances.

Q. For what year?

A. 1908.

Q. So outside of that you just took off the book figure?

A. Yes.

Q. You didn't know anything beyond that about the account?

A. I have not made any investigation of these amounts other than as I have testified to at various points, taxes, etc.

Q. But you didn't about rents of gas appliances?

A. No.

Q. "Gross profits from sales of gas appliances," you took that right from the books, did you not? 22706

A. Yes.

Q. And you did not investigate that either?

A. No.

Q. So all you know is what is found on the books?

A. That is what this statement purports to be, a tabulation of the books.

The Master: Except as you have made adjustments?

The Witness: Except as I have made adjustments.

Q. There is no adjustment here?

A. There is no adjustment in this case.

Q. "Gas Residuals Produced Less Expense," now, 22707 there was no such account in the ledgers from 1906 to 1908, was there?

A. The same thing under a different name, I believe.

Q. What was it before that that you used?

Mr. Ransom: I object to that. The books speak for themselves.

The Master: I will let him answer.

A. My working sheet does not indicate that there was any other account. It is gas residuals produced, or residuals produced.

Q. There was no such account in 1906 to 1908, was there?

A. 1906, 1907 and 1908, the account was known as "Gas Production."

Q. And after that it was "Gas Residuals Produced"?

A. Gas residuals produced.

Q. Did you take that right from the books?

A. Yes. I believe there are two small adjustments.

Q. What are they?

Mr. O'Brien: Will your Honor direct the stenographer to record the fact that the witness is asking Mr. Moeran questions.

22709

The Master: The record may record the fact that Mr. Teele asked Mr. Moeran to hand him the sheet covering adjustments in 1909 and 1914, and Mr. Moeran handed him the sheets and pointed out the items, which the witness now has in his hands.

A. There is an additional credit made by me in 1909 of $9,544.80. It appears in the company's books in the profit and loss account for the year 1910, at which time the company wrote off an amount standing in suspense, and it appears from the entry that

22710 $9,444.80 of it applied to the business of 1909, and I have therefore applied it in the statement to the year 1909.

In 1914, or rather in 1915, there appears in the profit and loss account of the company an entry of $11,786.67, and it appears from the entry that this applies to the period ending December 31, 1914. I have therefore applied it to the year 1914 instead of 1915, as it appears in the profit and loss account.

Q. Why did you make those adjustments?

A. Why?

Q. Yes.

A. I made them because it appears from the entry that they affected other years than the year in which they were finally carried into the profit and loss account.

Q. That is, the books were not correct?

A. The books were correct. This was a matter that was in suspense and not finally determined until a later period, and the accounts in the year which they affected having been closed they could not be reopened, and therefore the company made the entries in the profit and loss account, and when I analyzed 22712
that account, in order to state this revenue and expenses by years, I allocated these entries which I found in the profit and loss account to the years in which the record of the entry appeared to indicate they belonged.

Q. Anyway, you did take the pains here to find out the year to which the expenditure really belonged?

Mr. Goetz: Objected to.

The Master: Objection sustained.

A. It is not an expenditure.

Q. A credit?

The Master: Objection sustained. Are you through, Mr. Chambers? 22713

Mr. Chambers. With the exception of the cost of production and cost of distribution. There are some items here I would like to have Mr. O'Brien ask about which I have not touched upon.

The Master: Are you through?

Mr. Chambers: No, I am not through with the cost of production nor the cost of distribution, nor am I through with these other items.

The Master: If you have any other questions to ask you had better ask it. Have you anything else to ask?

Mr. Chambers: Yes.

The Master: Ask it.

Mr. Chambers: I propose to withdraw in favor of Mr. O'Brien, with the exception of cost of production and distribution.

The Master: Then you haven't anything more to ask?

Mr. Chambers: Yes. I have, but I am going to give way to Mr. O'Brien.

The Master: Except as I have told Mr. Teele to prepare a tabulation showing the items of cost
22715 of production and distribution, as to which I shall ask him to come back and identify that, instead of giving the details by question and answer one after the other, taking a day or two to do it, I am not going to let you cross-examine again. Now, if there is anything that you think you want to ask, or that you think I am going to let Mr. O'Brien ask, I don't let Mr. O'Brien ask it, it will not be asked.

Mr. Chambers: I am going through certain items. I think we have a right to divide our labors. I have more questions, I am going to ask Mr. O'Brien to cover the subject for me un-
22716 less the Master rules him out, and then I would like to ask the questions.

The Master: Has Mr. O'Brien any questions?

By Mr. O'Brien:

Q. Mr. Teele, in reference to Exhibit 367, there are numerous notations made on the various pages of the schedule of items estimated by company's engineer. In each instance was the information taken from Mr. Aldrich?

Mr. Ransom: I object to that as fully covered.

Q. Or did it include information from some other engineer in the employ of the complainant?

The Master: Objection sustained.

Mr. O'Brien: May I ask on what ground, your Honor?

The Master: No, next question.

Mr. O'Brien: If this is under the ruling that your Honor made I would like to know it so as to guide me in my further questions.

The Master: You had better ask your questions.

Mr. O'Brien: At this time I want to state in reference to the comment made by—

The Master: Have you any other questions? 22718

Mr. O'Brien: I have a number of questions.

The Master: You had better ask them, because the minute you start to read a statement I will tell the witness to leave the stand.

Mr. O'Brien: If your Honor will not permit me to place this statement on the record in reference to a comment made by the Master in the record of November 20th, of course I will desist and note an exception.

The Master: I will not allow you to read it. Next question.

Mr. O'Brien: Will your Honor state the grounds on which I am prevented from making 22719 a statement on the record in answer to a comment made by your Honor?

The Master: I will not permit any statements to be made that are not called for. There is no time or place now to spread any speech on the record. I won't have it.

Mr. O'Brien: This is in reference to a comment made by your Honor in reference to the conduct of this case.

The Master: I have told you that if you don't ask a question I will tell Mr. Teele to leave the

stand. I cannot do any more than to warn you again.

Mr. O'Brien: I ask that the statement to which I have referred be marked for identification.

The Master: Yes.

Mr. Ransom: I object to its being marked, and I object to this interruption.

The Master: Mr. O'Brien can ask to have his overcoat marked for identification, if he wants to.

Mr. Ransom: Exception.

22721 Mr. O'Brien: Your Honor recalls that this is a statement which you have read?

The Master: Yes, it is an unnecessary and useless statement, and I will not have it spread on the record.

Mr. O'Brien: Exception.

Paper marked Defendants' Exhibit AA26 for identification.

Q. Have you made any tabulation of the items on Exhibit 367 or the estimate by company's engineers, and the engineers from whom you got the information, and whether it was oral or written?

Mr. Ransom: Objected to.

22722 The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you depend entirely upon Mr. Aldrich as to information covering the whole period from 1905 down to date?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Do you know the sources of the information secured or imparted to you by Mr. Aldrich or any other engineer?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did they produce at the time they gave you this information the sources from which they derived the information, and did you check it up to verify it as to any year from 1906 down to date?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Was there any—

The Master: I won't allow you to ask any questions on Exhibit 367, Mr. O'Brien. It has been thoroughly covered.

Mr. O'Brien: Well, your Honor, at this time I think I ought to say to you what I think is the 22724
unfair result that comes from asking us to consult with the witness.

The Master: I have not asked you to do anything now, Mr. O'Brien. Next question. I won't allow any more questions on 367, because it has been thoroughly covered. The cross-examination has been exhausted enough, I rule.

Mr. O'Brien: In regard to that exhibit?

The Master: Yes. I said I would let you ask some questions about 366 that have not been covered.

Mr. O'Brien: In this connection there are a great many items I want to ask the witness, as to 22725
how he got up this paper, that were not asked by Mr. Chambers.

The Master: I will not allow another question on that subject.

Mr. O'Brien: There are questions that have not been asked by him and that relate to other matters.

The Master: I will not allow another question on how that exhibit was made up, on the ground that it is sufficiently covered by Mr. Chambers.

Mr. O'Brien: Exception.

Mr. O'Brien: Before you close up that, your Honor, I would like to have a ruling made on these questions if I am not going to be allowed to ask them. I want to ask the witness here with respect to a statement he made in regard to Cost of Construction in connection with an investigation which he made. I want to hand the witness a paper and ask him if it refreshes his memory, so that he can state whether he made this comment, Mr. Teele—

The Master (interrupting): What does it bear

22727 on?

Mr. O'Brien: This bears on the getting up of a schedule of Costs of Construction.

The Master: Go on, ask your question.

Q. Mr. Teele, do you recall having made this statement in a report to William Travers Jerome, in connection with work which you did for him, which was referred to in your direct-examination, quote—

Mr. Ransom: I object to it.

The Master: Wait a minute. Objection sustained. The work done for William Travers Jerome had no relation to the gas proposition at all.

22728 The Witness: Nothing whatever.

The Master: Objection sustained, and I direct counsel not to read any portion of that report.

Mr. O'Brien: I understood your Honor to direct me to proceed and ask the witness the question.

The Master: I said proceed, so I could see what there was, and I have seen, and I won't allow you to ask him.

Q. I show Mr. Teele a paper and ask him if that is a statement made by him?

The Master: I won't permit the paper to be handed the witness at all. I won't take any inquiry about it.

Mr. O'Brien: This is a comment made.

The Master: I don't care what he said ten or fifteen years ago to Mr. Jerome about some inquiry as to some traction situation.

Mr. O'Brien: This was with regard to what would be required in connection with his making a report.

The Master: I don't care what he said.

Mr. O'Brien: And it bears to that extent directly on some of his testimony in this case. 22730

The Master: I won't take it.

Mr. O'Brien: Will your Honor let the examination proceed up to the point where the witness will state whether or not he made the statement?

The Master: No. I rule the cross-examination is completed now, that you had ample opportunity in your original cross-examination to bring that out if you thought it was necessary, and I won't permit you to go into it now. Have you any questions to ask? Have you any questions on Exhibit 366? If you have, you can ask them, but nothing else.

22731

Mr. O'Brien: I do not understand you closed my examination completely as to the other exhibit.

The Master: I will make it clear now.

Mr. O'Brien: Well, I note an exception.

The Master: If you have anything now as to 366.

Mr. O'Brien: I will ask that this paper be marked for identification.

The Master: I won't even permit that to be marked for identification.

Mr. O'Brien: But you just said you would permit an overcoat to be marked.

The Master: Well, I have changed my mind, I won't permit this paper to be marked for identification.

Mr. Chambers: We take an exception to all of these refusals.

The Master: Yes.

Q. Mr. Teele, did you examine the Minute Books of the executive committee in connection with your preparation of any of the schedules which have been
22733 put in evidence since you took the stand?

Mr. Ransom: Objected to.

The Master: Objection sustained, already covered.

Mr. O'Brien: Exception. Do I understand, and I would like to know this so that I will not proceed with futile questions here that will mean nothing but a record of repeated overrulings on your Honor's part, whether or not your Honor excludes at this time any further cross-examination of the witness except with respect to Exhibit 366.

The Master: And with respect to 366, I won't
22734 let you ask any more questions unless I can see the usefulness of them, and except for 366 I won't let you ask another question.

Mr. O'Brien: Well, I note an exception to your Honor's ruling.

The Master: I don't think I will let you ask any questions about 366 either. I think Mr. Chambers has fully covered 366.

Mr. Chambers: Your Honor, I say I have not.

The Master: Well, I think you have.

Mr. Chambers: I did not cover Sales of Gas, Interest on Bank Balances and—

The Master: Well, now, will you let me find out about this. Mr. O'Brien, do you want to ask about Sales of Gas?

Mr. O'Brien: I do.

The Master: What point do you want to develop?

Mr. O'Brien: I want to find out here why his figures do not agree with those that are reported in the Public Service Commission, whether he examined them.

The Master: All right, ask him.

Mr. O'Brien: That is one point, and in saying 22736
that, I do not acquiesce in your Honor's ruling indirectly or in any other way—

The Master (interrupting): You better ask your question—

Mr. O'Brien (continuing): That I must tell you the point of discrepancy between me and the witness before I proceed to ask.

The Master: Do you want to ask a question?

Q. Mr. Teele, did you for the years covered by Exhibit 366 make any comparisons for verification or for other aid or help between the figures your men collated and the figures made in the reports annually to the Public Service Commission? 22737

The Master: That question will not be allowed.

I will permit counsel to bring out from the witness the fact that his figure for any year does not agree with the figure in the reports of the Public Service Commission, and to explain why there is that variance.

Mr. O'Brien: Of course, if your Honor says that the witness answers that he did not consult them at all, then the questions need not be answered.

The Master: Next question. I will ask it myself in a minute if you do not.

Q. Mr. Teele, if the reports to the Public Service Commission in 1909 showed sales from gas of about $12,080,801.59, what would your explanation be?

Mr. Ransom: Objected to as incompetent.

The Master: No, I will allow that.

Mr. Ransom: But it assumes—

The Master: I will allow it in this form. Have you got the report here?

Mr. O'Brien: I haven't the reports here.

The Master: Did you see the report of the year 1909?

22739 The Witness: I have not seen any of the reports to the Public Service Commission except the year 1918.

The Master: Do you know whether your figure for sales of gas in 1909 agrees with the report made to the Public Service Commission?

The Witness: I have made no comparison; I don't know.

The Master: If there was a variance would you know how to explain it.

The Witness: I could probably trace it; I could not at this moment explain it.

The Master: The same as to 1910 and the other years?

22740 The Witness: The same as to 1910 and the other years.

Q. Did you examine the reports made to the Public Service Commission by any of the affiliated companies in connection with this schedule?

The Master: Objection sustained. Let me ask you, Mr. Teele, you did look at it for 1918, didn't you?

The Witness: I have looked at 1918, yes.

The Master: Do you remember now whether your figure of fourteen million dollars plus agrees with the report?

The Witness: I do not know because I did not make any comparison. I referred to 1918, looked at it, a copy was furnished to me, but I have not used it in any way in my computations or referred to it to verify any of them.

The Master: You have ignored it?

The Witness: I have ignored it entirely.

Q. Mr. Teele, did you make any adjustments of the figures that you found in the books of the complainant company showing sales of gas for the years covered by Exhibit 366 to get these figures which you have set forth on this exhibit? 22742

A. I did make some adjustments for the years 1906, 1907, 1908 and 1909.

The Master: What were those adjustments?

The Witness: In amounts in 1906, $63,654.54; in 1907, $69,077; in 1908, there were three amounts, $2.17—

Q. State whether you added or subtracted?

A. (Continuing.) $5,611.21 and $48,744.12 and the year 1909, $1,748.30.

The Master: Were those additions or subtractions, and what was the reason for the adjustment?

Mr. O'Brien: Just a minute, Mr. Moeran. I 22743
have not consented to your consulting with the witness.

The Witness: Get 64, 65, 74 and 78.

Mr. O'Brien: Will your Honor direct the witness not to make any comment, or direct Mr. Moeran not to make any comment to the witness while complying with that request?

The Witness: I would say that all these items are deductions from gas sales.

The Master: Do you recall why?

The Witness: I will tell you in just a minute.

The Master: If those are all of the same general class, just describe one item descriptive of the class?

The Witness: The entry of $5,611.21 was the first one I have before me, made on the books in the year 1909, and is to adjust bills against the City of New York covering the month of December, 1908, charges having been made on the books at 90 cents, but bills having been rendered at 75 cents.

The Master: Is that descriptive of the adjust-
22745 ment, do you know, generally?

The Witness: It is true of entry 64 and 65.

The Master: Well, that is enough. I will take that as probably descriptive of what it is. Next question.

The Witness: The other bills are adjustments of city lighting bills.

Q. Then we are to assume you made no more adjustments beyond 1909?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, will you say why you did not consult with the sworn reports made by the complainant
22746 company to the Public Service Commission in verification or for the purpose of verifying the figures which you were preparing, or your men were preparing for presentation in this case?

Mr. Ransom: Objected to on the grounds previously indicated.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: Now, what other item was there that you said you wanted to ask the witness about? Interest on bank balances.

Q. From what did you take the item for each year

on Exhibit 366, entitled "Interest on Bank Balances, etc." from a particular account in the books or was it—

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: What is your point about this? What do you want to develop?

Mr. O'Brien: I want to find out where he got it and whether there were any adjustments.

The Master: I don't care for what you want to find out, but what you expect to show.

Mr. O'Brien: I expect to bring out on the record how he got the amount, whether he went into the books or— 22748

The Master: Did you take the matter up with him as Mr. Chambers and Major Clark did?

Mr. O'Brien: I did not.

The Master: Objection sustained.

Mr. O'Brien: I did not, your Honor.

The Master: Objection sustained.

Mr. O'Brien: And I have said to you before that I did not acquiesce in your Honor's ruling in regard to that.

The Master: Next question. I won't permit these fishing questions. 22749

Mr. O'Brien: I except.

The Master: Unless you have in mind a particular matter that you want to develop by a particular question, the question will not be allowed.

Mr. O'Brien: Your Honor will recall that when I went into bank balances I found he had made an error and had not included all of them.

The Master: Have you got a question to ask?

Mr. O'Brien: Your Honor will permit me to take an exception to your Honor's ruling at this time?

22750 Arthur W. Teele, Cross.

The Master: Take your exception and ask the next question.

Mr. O'Brien: And also to the fact that you are saying "objection sustained" throughout this case where no objection has been made by any party to the suit?

The Master: If you haven't any question I will let Mr. Teele go.

Mr. O'Brien: I will not control your Honor's action except to protect myself o nthe record.

Q. Was this item "interest on bank balances, etc"—
22751 were the figures in this item taken directly from the books in the form in which they are here, and in the amounts, or were they subjected to any adjustments by you?

The Master: The same ruling. The Master repeats what he said before that unless counsel can show what he expects to show by this question, the question will not be allowed. If counsel has no point by any questions that he has in mind, he better not ask them.

Mr. O'Brien: Your Honor, I want to say to you that my examination of the witness in regard to these items is to bring out the method that he
22752 adopted, whether or not in making up a schedule he depended upon oral or written information that is not in evidence in this case; whether or not he made any adjustments as to those items supporting non-gas and gas interest for the purposes of segregating these particular amounts; how far he personally went into these matters; whether or not there are any working figures that will explain this particular item. And if he has schedules that show what this particular item is, and how it was made up, which includes computations made for the purpose of arriving at

the result herein set forth, we should have them on the record, and I should know what they are for the purpose of pursuing my cross-examination.

The Master: What you have said applies to the items "Interest on bank balances, etc."?

Mr. O'Brien: That is the item I am talking about.

The Master: That is one. Does it likewise apply—

Mr. O'Brien: I want to find out what he means by "etc.," too? 22754

The Master: Does it apply to rental of jointly used facilities?

Mr. O'Brien: Well, I cannot undertake, your Honor, in a brief condensed statement to give you all of the reasons.

The Master: Well, what you have said—

Mr. O'Brien: For the purposes of cross-examination.

The Master: What you have said—

Mr. O'Brien: That will go according to the answers that are given by the witness, the scope of my examination.

The Master: Well, what you have said relates to the next item of rent of jointly used facilities? 22755

Mr. O'Brien: To the extent to which it goes, yes.

The Master: And likewise to miscellaneous rent revenue?

Mr. O'Brien: To the extent to which it goes.

The Master: And likewise revenue from street lamp and maintenance?

Mr. O'Brien: No, there are new questions that will go to that and come up in regard to each of these items.

The Master: The Master rules that in the light of the statement made by counsel as to the purpose of these questions, that none of them will be allowed as to any of these items, and that no questions will be allowed because the Master is satisfied that counsel has not looked at the underlying data, has not conferred with Mr. Teele or his assistants, and has not prepared himself to point out in terms as Mr. Chambers has done; there will be therefore no further cross-examination as to any of these items.

22757 Mr. O'Brien: Well, your Honor, in regard to that I desire to state here that I have not stated fully and I am not able in a hurried statement broken up by the interruptions of your Honor, to tell what may be the purposes of an inquiry that I am going to make of the witness. I respectfully submit I have a right without stating before hand that there is a discrepancy in his figure here, to find out how these figures were collated, how much time he put on them, whether he was on them personally, whether he took oral information or written that has not been disclosed to any of the defendants, whether reports were made to
22758 him that have not been handed to us and countless other matters that are involved in a fair, proper cross-examination of the witness.

The Master: All right, I have heard you, and that ends it. Now, Mr. Chambers, have you any questions to ask, and if so, I am going to let you take up the re-cross again, pointing out any variances, inferences, failure to include or the exclusion of items as to interest on bank balances, rental of jointly used facilities, miscellaneous rent revenue and revenue from street lamp maintenance, if you have any.

Mr. Chambers: Yes, I want to cross-examine him about those different items.

The Master: Have you any memorandum of any variances that you want to point out, such as you pointed out as to other items?

Mr. Chambers: I have a memorandum. I want to find out where he got his information as to bank balances?

The Master: That I will not let you ask, as to where he got the information. That is what I would not let Mr. O'Brien ask. Mr. Teele, leave the stand, the cross-examination is finished. 22760

Mr. O'Brien: Will your Honor hear me further before he leaves the stand?

The Master: After I let Mr. Teele go. Mr. Teele, the cross-examination of Mr. O'Brien is ended: the cross-examination of Mr. Chambers is ended. You are preparing some memorandum for Mr. Clark, upon which I will let him cross-examine you, so as to get that in the record, at two o'clock on Monday.

The Witness: If they are ready, we will have them here.

The Master: If they are not ready at two o'clock Monday, as soon as they are ready you appear for further cross-examination by Mr. Clark. 22761

Mr. Chambers: Interest on bank balances—I have a number of questions as to that.

The Master: I have finished the cross-examination. You have had your opportunity and you would not take it.

Mr. Chambers: You did not let me say anything about rental of joint facilities.

The Master: Next witness, Mr. Ransom.

Mr. O'Brien: If your Honor please, may I state—

The Master: No, no further statement.

Mr. O'Brien: Will your Honor permit me to call to your attention—

The Master: No further statement.

Mr. O'Brien (continuing): The points additional to what I have outlined, that I want to bring out from the witness Teele?

The Master: No, I have had all I am going to have. I will call the next witness now.

Mr. Chambers: I wanted to get an answer as to each item.

22763 Mr. O'Brien: Your Honor, will you permit me to ask Mr. Teele before he leaves the court room some questions with regard to the preparation of the data which he says he is preparing.

The Master: Not another question.

Mr. O'Brien: And I note an exception to your Honor's ruling.

Mr. Chambers: Exception.

Alten S. Miller, residing in Baltimore, Md., sworn as a witness for the complainant, testified as

22764 follows:

Direct-examination by Mr. Ransom:

Q. Mr. Miller, what is your occupation?

A. I am an engineer and the vice president of the Bartlett-Hayward Company.

Q. What is the business of the Bartlett-Hayward Company?

A. It manufactures or builds gas holders, all types of gas generating and purifying, condensing and scrubbing apparatus, tanks of various kinds, sugar machinery, by-product apparatus, pneumatic tools, automobile parts, and does some general jobbing work.

Q. Does it take contracts for gas plants complete, or parts of plants?

A. It take's contracts for entire gas plants or any gas plant machinery.

Q. And it erects plants?

A. Erects plants.

Q. Manufacturing and erecting the iron and steel parts therefor?

A. Erects gas plants and manufactures all the steel parts.

Q. How long have you known the Bartlett-Hayward Company to be engaged in the erection of gas 22766
plants and structures?

A. Well, I first entered the gas business in 1888. The Bartlett-Hayward Company was engaged in the manufacture of gas plants or gas manufacturing apparatus at that time, and I understood that it had been in such business for a great many years previous to that date.

Q. That is, your knowledge or first-hand connection with the gas business runs back thirty-one years?

A. Yes.

Q. And for many years prior to that time this company or the predecessor firm of Bartlett-Hayward Company were in this business of making and install- 22767
ing gas plants and apparatus?

A. Yes.

Q. What academic and engineering education did you receive?

A. I went to private schools in Richmond, Va., went one year to the Richmond College and three years to the Stevens Institute of Technology in Hoboken, where I graduated as a mechanical engineer.

Q. In what year?

A. 1888.

Q. What have been your occupations since you were graduated as an engineer?

A. In May, 1888, I went with the engineering department of the United Gas Improvement Company of Philadelphia, which company owned and operated gas plants and took contracts for the erection of gas plants and apparatus for making gas. There I was connected with the drafting, made drawings of gas apparatus and gas holders. In August of that year I went to Omaha, Neb., to the company which was owned by the United Gas Improvement Company, as
22769 assistant superintendent of the company. There I had charge of the operation of the plant, of the construction and of the extension of mains and services—all of this, of course, subject to the advice of the superintendent.

Q. That is, you had charge of the maintenance of the plant and the erection of a gas holder and governor house and the like?

A. I had charge of all the operations of the plant, including maintenance, and there I built a gas holder and put up a governor house, had charge of the installation of many miles of mains and personally kept all the records of the main installations, including the
22770 cost data.

Q. Of both the material and labor?

A. Material and labor.

Q. How about the labor and materials entering into the cost of making gas at that plant?

A. I had entire charge of all of the force. It was not a very large plant and I actually had to check up the time cards and approve all bills, for all purposes.

Q. How long were you in Omaha, and where did you go from there?

A. I stayed with the company four years, and then went to Chicago as manager of the National Gas

Light & Fuel Company, which was a contracting company for gas works apparatus and which was owned by the United Gas Improvement Company.

Q. Was this a company that built gas plants and gas works apparatus?

A. Yes. In a very short while I found the organization somewhat unwieldy and closed it, simply acting as western agent of the United Gas Improvement Company in its contracting business. I stayed there two years, and in 1894 I came to New York as engineer of the East River Gas Company of Long Island City. This company was operating in a small 22772
way, distributing gas to customers in Long Island City.

Q. It had a small plant over there?

A. Yes, and was building a considerably larger plant, putting a tunnel under the river, laying mains and services, with a view to distributing gas in New York City?

Q. That was a tunnel under the East River?

A. Under the East River, yes.

Q. So as to distribute gas in Manhattan?

A. Which was then New York City.

Q. Which was then New York City?

A. Now Manhattan.

Q. Yes. 22773

A. I stayed with that company for seven years, during which period I—

Q. Did you have charge of the operation of the old plant, or small plant, and the larger ones?

Q. I want to get my dates straight. Eight years I stayed with that company or its successors, during which period I completed the first design or the first part of the plant.

Q. The first unit?

A. The first unit, and later on two occasions in-

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creased it by additional units, until I put it up to a capacity of something between twenty-five and thirty million cubic feet a day. The tunnel, of course, was also finished.

Q. Did you have charge of the construction of the new plant?

A. Yes, and I largely designed it.

Q. And the company's business in Long Island City?

A. All of the business in Long Island City, and the distribution system; that is, the engineering end of
22775 the company on Manhattan.

Q. The tunnel was finished and gas was turned into the mains in New York City?

A. In New York City, in 1894.

Q. Did you have charge of the distributing system in New York City?

A. I had entire charge of all the operations of the system and the installation of mains, meters and services.

Q. By 1898, then, you had expanded the plant, you said, so as to increase its capacity to practically double?

A. In 1898 I had completed the second unit—1898
22776 or 1899—so it was about double its original capacity. It was at a later date that I redoubled it, putting it up to between twenty-five and thirty millions.

Q. What happened in 1898 so far as any consolidation is concerned?

A. In 1898 the East River Gas Company, or the New York & East River Gas Company, which was a difference in name, and I never knew the exact difference between the relations of the corporations—

Mr. O'Brien: Were there two companies, Colonel Miller?

The Master: The interruption is not allowed.

The Witness: The New York and East River—

The Master: Just answer Judge Ransom's questions.

Q. The New York and East River Gas Company owned the East River Gas Company?

A. Yes.

Q. And that was consolidated with what company?

A. The Equitable Gas Company, forming the New Amsterdam Gas Company in 1898.

Q. Did you become engineer of the New Amsterdam Company and, if so, what were your duties in 22778
that capacity?

A. I did become engineer of the New Amsterdam, and had charge of all construction and all the engineering operations, and all the commercial operations in Long Island City. That is, I had charge of the manufacture and distribution of gas, the running of mains and services, the setting of meters; but I did not have charge of the canvassing in Manhattan or the delivery of bills or the offices in Manhattan.

Q. You had entire charge of the manufacture of all the gas?

A. Yes.

Q. And you had charge of all the construction work 22779
of the company?

A. Yes.

Q. In 1900 what happened so far as the Consolidated Company acquiring any interest in the New Amsterdam Company is concerned?

A. The Consolidated Company bought the stock of the New Amsterdam Company and at that time I was appointed constructing engineer of the Consolidated Gas Company, in addition to my duties as engineer of the New Amsterdam Company. Then I had two offices and it was after that I made the last extension to the New Amsterdam Gas Company, put-

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ting it up to its high capacity. I also put in some boilers at the 99th Street station of the Consolidated Company.

Q. First as to the New Amsterdam Company's plant, did you double the capacity of that plant?

A. Yes.

Q. Did you build the two 5,000,000-cubic-foot capacity gas holders of the Consolidated Company at 111th Street?

A. Yes, and put in the valve and governor house at 111th Street alongside those holders.

22781 Q. You put in additional gas mains in the East River tunnel?

A. Yes.

Q. And new condensors in 21st Street?

A. Yes.

Q. And generating apparatus in 44th Street, and so on?

A. Generating, scrubbing and condensing apparatus in 44th Street.

Q. In 1902 what did you do?

A. In 1902 I went to Baltimore as vice president and manager of the Consolidated Gas Company of Baltimore City. There I built an entire new plant to

22782 replace three old manufacturing plants, reorganized the personnel of the company, and also very largely extended the distributing system. A few years later that company was bought by the Electric Light Company, known as the Consolidated Gas, Electric Light and Power Company, and I was made vice president and manager of the new corporation. I built a new electric plant and entirely rearranged the whole distributing system of the Electric Company.

Q. Has this Consolidated Gas Company of Baltimore any connection with the Consolidated Company of New York?

A. No.

Q. Or the Consolidated Gas, Electric Light and Power Company—that is in no way identified with the New York City company?

A. You mean the Baltimore?

Q. Yes.

A. No.

Q. In 1906, while you were still connected with the Baltimore company, did you become connected with any other gas corporation?

A. I was made president of and built the plant of the Hyattsville Gas Company of Maryland, which is a small company on the edge of Washington. 22784

Q. You built the gas plant and the distributing system for that company?

A. Yes.

Q. In 1906 and thereafter?

A. Yes. By the way, I am still president of that company.

Q. In 1909 what did you do?

A. I went to St. Louis, Mo., as vice president and manager of the Union Electric Light & Power Company, and a few months later I was made president of the company.

Q. That company furnishes substantially all of the electric current for St. Louis, doesn't it? 22785

A. Yes. There I made a lot of changes in the organization—

The Master: Bring Mr. Miller down to the Bartlett-Hayward Company, and get to his testimony. We have had enough on qualifications.

Mr. Ransom: I want to bring out one or two further facts.

Q. And in 1911, and for four years thereafter, were you a consulting engineer in the firm of Humphreys & Glasgow?

The Master: I direct Mr. Ransom to omit any further question as to qualifications.

Mr. O'Brien: We intend to go into that matter, Mr. Chambers does.

Mr. Ransom: I wish to qualify him as to his knowledge.

The Master: I say you have asked enough.

Mr. Ransom: Through the years, not only in 1906, but also in 1911.

The Master: I will let you ask him briefly what companies he has been connected with, and what his work has been since.

22787 Q. Were you for four years—

The Master: No, I won't let you ask that. Col. Miller, what has been your business since then?

The Witness: For four years following the time I left St. Louis which was in 1911, I was consulting engineer associated with Dr. A. C. Humphreys of the firm of Humphreys & Miller.

The Master: And after that?

The Witness: After that, with the exception of a year in which I was in charge of the design of ammunition in the Ordnance Department, I

22788 have been vice president of the Bartlett-Hayward Company, Baltimore.

Q. In 1915, you went to Baltimore as vice president of the Bartlett-Hayward Company?

A. Yes.

Q. And with the exception of a year from April, 1918, you have been with them—

The Master: Oh, we have got that.

Mr. O'Brien: Oh, let him lead him, your Honor.

The Master: Who is running this trial, you or I? Judge Ransom, you have called Col. Miller

to testify as an expert to the value of something. Let us have the question.

Mr. O'Brien: With your Honor's permission I am going to examine the witness as to his qualifications.

The Master: You would do it anyhow. Proceed.

Q. What engineering or scientific societies are you a member or officer of?

The Master: I don't care, that doesn't make a man qualified.

Mr. Ransom: It might. 22790

The Master: No.

Mr. Ransom: That is a common question.

The Master: I say you have asked enough questions to show that Col. Miller is an expert on the cost of manufacturing and installing gas apparatus.

Mr. O'Brien: Your Honor has said that before we have cross-examined him as to his qualifications.

The Master: I say Judge Ransom has asked him enough.

Q. During your vice presidency of the Bartlett-Hayward Company, did the Bartlett-Hayward Company do work at the plant of the Consolidated Gas Company from time to time? 22791

Mr. O'Brien: I object to that on the ground that the witness has not yet qualified, if this marks the beginning of testimony of an expert character, that we should have the right to examine the witness as to his qualifications.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

Q. Were you in touch with this work?

A. Yes.

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Q. In connection with your work from 1900 to date, and for a number of years prior to 1900, have you purchased and sold materials and employed labor used in the construction and operation of manufacturing and distributing plants for gas?

A. Yes.

Q. Have you been and are you now familiar with the market prices of such materials and the rates of pay of such labor, from 1900 to the present time?

A. Yes.

Q. In September, 1919, were you engaged by the
22793 complainant company to undertake an examination and investigation of its buildings and manufacturing and holder stations and apparatus, and to furnish an opinion or report concerning their condition?

A. Yes.

Mr. O'Brien: Will your Honor at this time suspend the examination and allow us to proceed with an examination on the qualifications of the witness?

The Master: No, I am going right through with this examination and let you cross-examine afterwards.

Mr. O'Brien: You mean that you are going to
22794 require that we take up the question as to his qualification during the regular cross-examination?

The Master: I will rule now, Mr. O'Brien, that I am not going to let you waste any questions on cross-examining this witness as to qualifications. I won't hear a question about it. It is nothing but a waste of time.

Mr. O'Brien: I will except to your Honor's ruling, and I will state that I think it is entirely unwarranted, on the limited examination of the witness, to assume that we should not be allowed to go into his qualifications.

The Master: You have your exception. I won't allow you to do it.

Q. Did you make an investigation of the various plants and structures of the complainant company and observe their use?

A. Yes.

Q. At what manufacturing works, stations, and other sites and properties of the complainant company did you examine these buildings, structures and apparatus of the complainant company and observe their use?

Mr. O'Brien: The stenographer might note 22796
that the witness has copious blueprints here.

The Master: Yes, note the blueprints.

A. At Irving Place and 15th Street; Hester and Elizabeth Streets; 114th Street and Third Avenue; 474 West 15th Street; 14th Street station; 21st Street station; 42nd Street station; 44th Street station; 63rd Street station; 65th Street station; 99th Street station; 111th Street station; West 132nd Street station; East 132nd Street station; Kingsbridge, and on 57th Street between Seventh Avenue and Broadway.

Q. When did you begin your work?

A. In the latter part of September.

Q. How long have you been prosecuting it? 22797

A. Up to date.

By Mr. O'Brien:

Q. You mean September, 1918?

A. 1919.

Q. 1919?

A. Yes.

By Mr. Ransom:

Q. Did you devote much of your own time to it?

A. Yes. I devoted a part of every day and some days all day.

Q. A very considerable part of your time?

A. Yes.

Mr. O'Brien: Judge, I have allowed you to lead without making any objections so as not to disturb the continuity of your mental machinery's operations, but don't hand us anything like that, because I will take the time to object to it as leading.

The Master: Next question.

Q. Did you personally visit each of these plants and properties?

22799 A. Yes.

Q. Did you personally examine all of the buildings, structures, holders and apparatus upon each of the sites previously mentioned by you?

A. Yes.

Q. Did you have any assistants in this work?

A. Yes, a number of them.

Q. What assistants did you have?

A. I had two building experts, several engineers familiar with the construction and operations of gas work apparatus and machinery.

Q. And distributing equipment?

A. Well, distributing in so far as we call holders
22800 and governors distributing, but not the distribution system in the ordinary acceptation of the term. I had an office force consisting of an engineer, an office manager and stenographer.

Q. Did all these men work with you and under your immediate direction and personal supervision?

A. Yes.

Q. Did you give them instructions from time to time as to what you wanted them to do?

A. Yes.

Q. Did these assistants work with you for any period of time?

A. Yes, practically since the work started.

Q. Did you observe the work which they were doing from time to time and the results of it?

A. I did.

Q. Did you personally go over all their work?

A. I did, I went over their work, went over the plant, and checked every figure.

Q. Will you describe what your assistants did in the examination of the property, and what work you did in the same regard?

A. My assistants went over every building, every piece of apparatus, every holder, and checked up or made notes as of its condition, and I went over with 22802
them and alone the same ground and checked the same items. Then my assistants applied to the notes that had been made of work required to be done the unit costs which had been developed by me and figured out, the cost of putting the buildings and apparatus into the condition in which they were when new.

By Mr. O'Brien:

Q. Reproduction cost you mean?

A. The cost of putting the buildings or apparatus in the condition in which they were when new. That is, the amount necessary to expend on them to put them in that condition.

22803

Mr. O'Brien: I move to strike out that last portion of the witness's answer where he uses the words "cost required to put the property in the condition in which it was when new," as embodying a conclusion.

The Master: Motion denied.

Mr. O'Brien: Exception.

By Mr. Ransom:

Q. What did you do with the work of your assistants, you went over it in detail?

A. I went over it in detail and checked it.

Q. And reached figures embodying your judgment?

A. I made such changes as were necessary to make the figures conform to my judgment.

Q. And you checked the estimates?

A. Checked each estimate.

The Master: Did you carry out the extensions yourself?

The Witness: Yes, sir; many of them.

The Master: Not all of them?

The Witness: Not all of them, but very many of them. In fact, I made many of the figures
22805 myself, because I made changes in the original figures.

Q. Colonel Miller, in your examination of the visible portions of buildings or structures did you inspect every part of the building that was visible?

A. Yes.

Q. How did you inspect or reach conclusions as to portions which were not visible?

A. In the case of buildings, if the foundations or interiors of the walls, or the beams under the floors deteriorate, the building very clearly shows evidences of it, because the floor will settle, the building will settle, or the walls will settle, and where the exterior
22806 was good I have assumed that the interior was also good.

Mr. O'Brien: I move to strike that out as speculative and irresponsive, and he is not qualified as an expert on that.

The Master: I don't think you have answered that. How did you reach a conclusion as to portions that were not visible?

The Witness: My conclusion is that if the portion which is not visible is defective that the visible portion will be defective.

Mr. O'Brien: I move to strike that out as a conclusion.

The Master: Motion denied.

Mr. O'Brien: Exception.

Recess until 2 P. M.

Afternoon session.

By Mr. Ransom:

Q. Colonel Miller, will you state what has been your experience in the designing, planning and construction 22808
of buildings and foundations for buildings and apparatus?

A. My first experience—

The Master: I think we have had enough on apparatus.

Q. Well, foundations?

The Master: I am willing to take some more on the building end of it.

The Witness: My first experience was just after I went with the United Gas Improvement Company in assisting in the designing of the buildings for the 25th Ward works in Philadelphia.

22809

The Master: What experience have you had in buying the material necessary for building construction, such as iron and stone and steel and brick and mortar and labor?

The Witness: I personally designed, drew the specifications for and contracted for all the buildings in the plant of the East River Gas Company of Long Island City, which were built subsequent to 1894, which carried with them a capacity of about—over twenty million cubic feet of gas a day.

By the Master:

Q. You mean you designed the structural features of the building?

A. I did.

Q. The foundations?

A. The spread of the foundation, the thickness of walls, the strain on the steel and the type of roof and the strain on the roof, and calculated, or made many of those calculations myself, but specified everything.

Q. Well, how about the cost of material, what have
22811 you had to do with that?

A. I made contracts myself and the work was all inspected under my directions, and I personally inspected a great deal of it, and approved all the bills for payment.

Q. Since then what experience have you had?

A. I have personally designed all the buildings and plant of the Consolidated Gas & Electric Light & Power Company of Baltimore, or the Consolidated Gas Company of Baltimore, which was built in 1903.

Q. What experience have you had in the last five years with reference to the cost of material?

A. I assisted and had the passing of the bills and
22812 the letting of the contracts for several million dollars' worth of buildings which the Bartlett-Hayward Company has put in in the last four or five years.

Q. Do they build the structures as differentiated from the manufacturing features of the apparatus?

A. The Bartlett-Hayward Company have always sublet the buildings, but it is in its own plant, we spent over fifteen million dollars in buildings and machinery in the company's own plant in order to extend its regular business and to make ammunition for the government, and I was closely in touch with all of that work, let many of the contracts and passed most of the bills.

The Master: Go ahead, Mr. Ransom.

Mr. O'Brien: Your Honor, of course I object to the witness's qualifications in this particular branch of the testimony.

The Master: I will discuss that later under your general cross-examination. I will let you ask some questions on it. I do not think I will let you ask very many, but I will let you ask some.

By Mr. Ransom:

Q. When you examined and inspected these buildings of the complainant company, you, of course, 22814
could not see the foundations, or all of the foundations. How did you judge whether there were any defects developed as to any of the foundations and as to the condition of the foundation?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial; he is asking now how could he see through the ground.

The Master: I will let him answer the question.

Mr. O'Brien: It is all speculative, if he has made any figures on something he has not seen.

The Master: I will let him answer the question. 22815

Mr. O'Brien: Exception.

The Witness: Were the foundations defective, the buildings would settle.

By the Master:

Q. How could you tell whether there was a foundation or not? Did you expose anything?

A. By the fact the building stood up.

Q. Did you expose any foundations to see how deep they were?

A. Practically none.

Q. Did you rely on any plans?

A. No, I just examined the building. Understand, I am not valuing the foundation, I am just estimating here the cost of putting the buildings in condition, not the cost of the buildings themselves.

Q. Oh?

A. That is all. Not the cost of the foundations or the buildings but just the cost of putting them in condition.

Mr. O'Brien: Oh, you are going to give us the depreciation?

The Witness: There is no depreciation.

22817 The Master: Mr. O'Brien, don't interrupt.

Mr. Ransom: I judge Mr. O'Brien has now made Colonel Miller his witness on that subject.

The Master: We will get through quicker if you will let Mr. Ransom put in his line of questions.

Mr. O'Brien: I didn't know what he meant, your Honor. Over here on the City Hall, the man with white overalls that are applying a coating, they say that is a waterproof coating to the good old colonial structure there, and if that is what Colonel Miller is going to tell us about, how much it will take to replace these "Hindenburg" walls up there at 14th Street and 42nd Street, I think we ought to know it before we start.

22918

The Master: No. Go ahead, Judge Ransom.

By Mr. Ransom:

Q. Colonel Miller, will you describe the manner in which you inspected and examined apparatus and machinery and the like?

A. I examined the exterior of all of the apparatus and holders, and where the machinery was running I stood by it, watched it run and saw how it functioned. I questioned all that were connected with

it as to what their estimate of it was, what the conditions were. The illuminating gas, of course, has no effect on—

Mr. O'Brien: Your Honor, I object—

The Master: I think you are going beyond the question.

Q. What did you look at and look into?

The Master: What did you do? How did you examine the apparatus? Did you take any of it apart?

The Witness: I looked into the gas making machinery, that is, into the furnaces and into the 22820
boiler furnaces.

Mr. O'Brien: You mean you opened the door and looked in?

Mr. Ransom: I object to the interruption.

The Master: I will not permit you to interrupt.

Mr. O'Brien: Well "looked into it" may mean anything.

The Master: You will have your cross-examination. Make your notes.

The Witness: The gas making machinery I looked into, that is the furnaces, and into the boiler furnaces, into the boiler fuel, and exam- 22821
ined everything that was visible, and some of the apparatus was taken apart—pumps, engines, and exhausters, and I examined those; but there was certain apparatus which, of course, I could not get into, certain pumps in operation. There were certain engines in operation and exhausters and blowers, and in those cases I simply observed the operation.

Q. Well, did you tap or feel the shells of the generators and the like?

A. The gas making machinery that had fires in I felt the outer shell to be sure that the lining was in good shape.

Mr. O'Brien: You felt it?

The Witness: Felt it with my hand.

The Master: I can't permit the interruption.

Mr. O'Brien: Well, that word was mumbled, and I wanted to get that word.

The Master: Well, then you will have to make your notes and ask later on.

The Witness: I felt the shells to be sure that
22823 the lining was in good condition, and that the shells were not being heated as a result of defective lining.

Q. Does gas preserve or corrode iron or steel?

A. It preserves it.

Mr. O'Brien: I object on the ground the witness has not qualified as an expert in that respect.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. In your experience in the case of generating and purifying apparatus, does corrosion come from the outside or inside?

22824 Mr. O'Brien: Objected to on the same grounds.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Outside.

The Master: I do not think it is necessary to repeat that objection to every question, because you now challenge his competency, and I have overruled your objection and will take a series of questions under the same exception.

Mr. O'Brien: On the further ground, too, that he has not laid the foundation for asking

questions of this kind, and he has assumed that the witness is an expert.

The Master: Objection overruled.

Mr. O'Brien: And the examination having been manifestly purely superficial—

The Master: The examination as to qualifications?

Mr. O'Brien: The examination of these machines. If you assume he is an expert, they have not laid the foundation here for asking those questions.

The Master: Objection overruled. Proceed. 22826

Mr. O'Brien: And the question is vague, it does not specify any particular machine.

Q. Were various parts of the machinery and apparatus being overhauled at times when you were visiting these plants?

A. Yes.

Q. And on those occasions you examined the apparatus and machinery as taken down?

A. Yes.

Q. Upon this examination made by you, did you ascertain what work, in your judgment, it would be necessary to do upon the various buildings, structures and plants, in order to put them in the condition in 22827 which they were when new?

A. Yes.

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial.

The Master: What is the purpose of that proof?

Mr. Ransom: It relates to the present condition of the properties. It shows to what slight extent there is work to be done to put them in condition equivalent to new.

The Master: Is that another way of proving their present condition?

22828 Alten S. Miller, Direct.

Mr. Ransom: Well, present physical condition, yes.

The Master: Why can't you ask the witness what is their present physical condition as compared with new structures?

Mr. O'Brien: Your Honor, I call to your attention that they resuscitated a dead man, Lord have mercy on his soul, Mr. Mayer, who testified to depreciation specifically as to each piece of equipment. Now they are trying to contradict their own witness through this line of testimony.

22829 The Master: Well, I will allow the testimony, but I want to get it more directly. I take it that the question ought to be, "What is the condition of this apparatus."

Mr. O'Brien: On the further ground that it is vague, does not take up the independent plants. He is asking for a general statement.

Mr. Ransom: If your Honor will permit me to proceed, you will see the bearing of it.

Q. Have you also made an estimate of the expenditures necessary, in your opinion, to put these plants in the condition in which they were when new?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, the witness has not

22830 shown any knowledge of what they were when new. Some of them are antediluvian, some were put in at a later date, maybe some part of the equipment of the East River Gas Company or the New Amsterdam Gas Company, in the time of the witness, concerning which he may have some direct knowledge, but as to the vast amount, the witness should show some knowledge of those things before he is allowed to answer this question.

The Master: I am not impressed with the line

of question but I am going to allow it for the time being.

Mr. O'Brien: Exception.

Mr. Ransom: Of course it has a bearing and is a part of our case in connection with the claim which has been very vigorously asserted here in behalf of these defendants, that there is some theoretical or other depreciation which has obliterated a large part of this investment and property.

The Master: Go ahead, ask the questions.

Q. What work, Colonel Miller, do you comprehend in the putting of the property in the condition it was when new? 22832

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial; on the ground that the witness has not shown any knowledge of what these properties were when new.

The Master: Your objection is that it is irrelevant, incompetent and immaterial. Objection overruled.

Q. What do you mean by the putting of the property in the condition in which it was when new?

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial.

The Master: The question before this one has been withdrawn. 22833

Mr. O'Brien: I make the same objection, your Honor. He is asking the witness now not the meaning of some technical terms; he is asking him about something that he is not proven to have any knowledge of.

The Master: Objection overruled.

Mr. O'Brien: What it was when new.

The Master: That is what he is asking him to explain.

22834 Alten S. Miller, Direct.

A. I mean putting it into the condition it was when new, according to the present design, and without any reference to original designs, but according to the present design as is indicated by the property at this time.

Mr. O'Brien: I move to strike out the answer of the witness as being entirely hieroglyphic and vague and not understandable.

The Master: Motion denied.

Mr. O'Brien: Exception.

Q. With respect to maintenance and upkeep, in what condition did you find the properties which you

22835 examined?

Mr. Chambers: I object unless he tells what properties.

Mr. Ransom: He has described the properties.

The Master: He has said what properties they are. Objection overruled.

Mr. O'Brien: He cannot make one blanket comment. If he is going to ask what he found the condition of the 111th Street station in, the repair shop, the blacksmith's shop, we will know what it is.

The Master: The question directed to him by counsel covered all the property. I will take

22836 his answer.

A. As a whole, in very excellent condition.

Mr. Chambers: I object to that and move to strike it out. He must state what the condition is that he found them in.

The Master: Next question.

Mr. O'Brien: Will your Honor strike that out?

The Master: No.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Q. With respect to operating efficiency, in what condition did you find the plant?

A. Very excellent.

Mr. Chambers: The same objection, and I move to strike out the answer on the ground that it is a characterization and not a description of the condition of this property.

The Master: Same ruling.

Mr. Chambers: Exception.

Mr. O'Brien: Exception. I would like to ask, Judge Ransom, if you are asking solely about the plant of the complainant company? 22838

The Master: The places and plants he has testified he examined.

Q. As a result of your examination, Colonel Miller, have you prepared a schedule showing the plants at which in your judgment work would be necessary in order to put them in the condition in which they were when new?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, on the ground that the witness has not been qualified as an expert; on the ground that he has not been shown to have knowledge of what they were when they were new; on the ground that the question is not responsive, does not refer to the various classes and kinds of property included in the general statement involved in the question. 22839

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

Q. Do you also show in this schedule the amount which it would cost to put these properties in that condition?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. As of what date did you take the prices for materials and labor in your estimate of the expenditures for this purpose?

A. December 31, 1913, and October 1, 1919.

Q. Why did you select these two separate dates?

A. I wanted to show the comparison between the prices as of those two dates.

Q. That is, the cost under pre-war conditions and the cost under the present level of prices?

A. Yes, sir.

22841 Q. Do you know of your own knowledge whether the descriptions of the various properties set forth in this schedule are correct?

A. Yes.

The Master: Are they?

The Witness: They are.

Mr. O'Brien: Just a moment. Your Honor, he is asking the witness to pass judgment upon himself here.

The Master: Yes, sometimes that is in the question.

Mr. O'Brien: I do not think that is a proper question, and I object to it as incompetent, irrelevant and immaterial.

22842

The Master: Objection overruled.

Mr. O'Brien: I move to strike out the answer, the answer having been given by the witness.

The Master: The motion to strike out is denied.

Mr. O'Brien: Exception.

Q. What is meant by the alphabetical references in this form of schedule which you have produced?

A. It is simply a designation of the buildings, which corresponds to a drawing that I had showing those markings, which I adopted for my own convenience.

These drawings I believe are the insurance maps of the company.

Q. That is, these designations are the same as on the insurance maps?

A. Yes.

Q. But they are purely for convenience here?

A. Purely for identification.

Q. Do those insurance maps show the dimensions or descriptions which you have set forth in this summary?

A. No.

Q. That is, you did not take any of this data from 22844
the insurance maps?

A. No.

Q. In this schedule have you grouped under each manufacturing station, holder station or other building, the properties upon which work would in your judgment be necessary in order to restore them to the condition which they were in when new?

A. Yes.

Q. Have you in the first or left-hand column described the property?

A. On page 1 I have described the location.

Q. The first page is the summary page?

A. Yes. 22845

Q. On the other pages in the first or left-hand column you have described the property?

A. Yes.

Q. Where it is, a part of what station or shop or department it is?

A. Yes.

Q. Have you shown in one column, opposite each property described, the amount which in your judgment would have to be expended for such purpose if the work had been done in December, 1913, or on the basis of prices at that time?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. In the other column the amount of such expenditures if the work had been done in October, 1919, and on the basis of prices prevailing at that time?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes. I have one column for buildings and one column for apparatus.

22847 Q. In the statement of expenditures in relation to apparatus have you described the nature of the work for which the particular expenditure would have to be made?

A. Briefly.

Q. Have you set out after the description of each holder the nature of the work which it would be necessary to do in order to put the holders in the condition in which they were when new?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Briefly, yes.

22848 Q. What are the purposes for which in your judgment expenditures would have to be made in order to put the buildings in the condition in which they were when new?

Mr. O'Brien: Same objection. On the further ground that it is too vague and general and does not specify any particular property, nor any particular class of property.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Principally repairs to roofs, pointing, mason work and painting work, and some few panes of glass.

Q. Painting parts of exteriors and parts of interiors?

A. Yes.

Q. Any replacement of broken panes of glass?

A. A few.

Q. Expenditure for new boards for floors and the like?

A. There are a few floors that it would be necessary to repair.

By the Master:

Q. Colonel Miller, when you have pointed up these walls and fixed these roofs and painted these exteriors and interiors, fixed these floors, is it not your testimony that it will be the same as a new building? 22850

A. Yes, sir.

Q. In every respect the same as a new building?

A. Yes, sir. Taken in connection with the present maintenance of these buildings; yes, sir.

Mr. O'Brien: The witness's idea is that it is immortal. I will give it to you now, so you will understand it.

The Master: I did not ask you for a speech, Mr. O'Brien.

Mr. O'Brien: We are dealing with immortals.

The Master: I did not ask you for a speech. 22851

Q. Did you include in this summary schedule any properties which you examined and as to which you found no expenditures would be necessary?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial. It is not specific, it does not mention any particular properties, the witness has not shown that he knows when they were built, that he knows the conditions under which they were built, that he knows anything about the foundations, that he has examined the plans of the building or the equipment and, your

22852 Alten S. Miller, Direct.

Honor, I think it is entirely in the realm of guesswork.

The Master: Objection overruled.

Mr. O'Brien: Exception.

The Master: And as to the rest of your objections, just make them on the general grounds of immateriality, irrelevance and incompetence and I will assume that it includes any point you want to elaborate.

A. No.

Q. On the first sheet of this schedule have you
22853 shown a recapitulation of the amounts set forth in the supporting sheets?

A. Yes.

Q. And grouped by the various stations, buildings and the like of the complainant company?

A. Yes.

Q. And if interrogated as to each item mentioned in this schedule would you testify and do you testify that the respective descriptions of property are correct, that the nature of the work to be done is as described in the schedule where such descriptions are given, and that the cost of putting the properties in the condition in which they were when new, as
22854 set forth in the column opposite the respective items, as of December 31, 1913, and October 1, 1919, are your estimates of such costs?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Mr. O'Brien: Do I understand that your Honor is going to throw it out afterwards?

The Master: I do not know what I am going to do with it yet.

Mr. O'Brien: Your rulings are only tentative now?

The Master: I am ruling them in as proper direct questions.

Mr. Ransom: I offer in evidence this schedule and supporting sheet.

By the Master:

Q. Is this the one that you prepared, Colonel Miller?

A. Yes.

Q. Colonel Miller, as I understand it this summary or document that you prepared, and which Judge 22856
Ransom has offered in evidence, is what you would say in answer to specific questions as to each item referred to on this paper?

A. Yes.

Q. In other words, if Judge Ransom were to ask you whether you looked at Irving Place and 15th Street and determined how much it would cost as of December, 1913, to fix it, and as of October, 1919, you would give the figures and the data and information that is in here?

A. Yes.

Q. So that this paper of fifty-one pages is practically a summary of what your oral testimony would 22857
be if your testimony was called for by questions and answers?

A. Yes.

The Master: I assume that counsel for the defendants object to this paper upon the ground it is incompetent, irrelevant and immaterial, carrying with that objection any specific ground that counsel may want to call to my attention later on. The objections are overruled and the paper will be marked.

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Mr. O'Brien: Shall we have an examination of the witness preliminary to our objections?

The Master: No.

Mr. O'Brien: You embodied all our objections in that?

The Master: Yes, incompetent, irrelevant and immaterial—which includes anything you may want to get in later on.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Marked Complainant's Exhibit No. 377.

22859 Q. Colonel Miller, from your experience and knowledge of unit prices over the period which you have described, and your knowledge of the costs of doing work in the building of gas plants, would it, in your opinion, cost more today to reproduce the buildings, holders, machinery and apparatus of the complainant company which you have examined than it would have cost to reproduce the same properties on December 31, 1905?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial.

The Master: I will allow it. It is opinion evidence.

22860 Mr. O'Brien: There is no foundation laid for it, your Honor.

The Master: This witness is called as an expert and I will take his evidence.

Mr. O'Brien: It is general. It does not lead us anywhere. They are not coming in here apparently, your Honor, with any proof that the case would call for, except giving us the faint outlines or a silhouette of proof. We ought to know at this time what specific proposition the witness is going to testify about.

The Master: Objection overruled.

Mr. O'Brien: If he is going to give us reproduction costs we ought to know it, but if he is going to give us a blanket statement that things cost more than they used to before the war, why, we do not need Colonel Miller to tell us that.

The Master: We will know what he wants to testify to when his direct is finished.

A. Yes.

Q. Would it have cost more on December 31, 1918, to reproduce the buildings, holders, machinery and apparatus of the complainant which you examined than it would have cost to reproduce the same properties on December 31, 1905? 22862

Mr. O'Brien: I object to that, especially on the ground, your Honor, of its being so general.

The Master: Yes, and the same ruling.

Mr. O'Brien: Exception. He does not specify a particular class of property. There are some things that cost less.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

By the Master:

Q. It would cost more to reproduce all this property? 22863

A. Yes.

Q. Are there not some items that it might cost less to reproduce?

A. I do not know of any.

Q. Colonel Miller, on the basis of the same knowledge and experience, would it cost more today to reproduce gas mains, pipes and services in the streets of the Borough of Manhattan than it would have cost to reproduce the mains, pipes and services on December 31, 1905?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

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Mr. O'Brien: Exception. It seems to me that it is plumbing work the Colonel has been called upon to do—wiping a joint.

The Witness: I have done plumbing work.

Mr. O'Brien: Well, you are wiping a joint now, are you not, Colonel?

The Master: The same ruling.

Mr. O'Brien: Exception.

The Master: It would cost more to reproduce the mains, services and pipes now than in 1905?

22865 The Witness: Yes.

Q. Would it have cost more on December 31, 1918, than on December 31, 1905?

A. Yes.

Q. On the basis of the same knowledge and experience, are the unit prices of materials and labor which enter into the construction of the buildings, plants, mains and services, quantity for quantity, higher today than they were on December 31, 1905?

Mr. O'Brien: Objected to on the general grounds, your Honor; on the further ground that it is not specific, it does not mention any particular property and it is based on a theory that

22866 is erroneous.

The Master: Objection overruled. Here is the situation as I see it, Mr. O'Brien: Judge Ransom has put in evidence Mr. Mayer's appraisal of values with a detailed statement of each item, and he now calls Colonel Miller to say that the items would cost more today than they would have cost in December, 1905. He goes back to the Mayer testimony. Is that the idea, Judge Ransom?

Mr. Ransom: That is part of it.

The Master: Go ahead.

Mr. O'Brien: With a foot in the grave, they want to build up the case.

Q. Were these unit prices higher on December 31, 1918, than on December 31, 1905?

Mr. O'Brien: Objected to, because he does not mention any particular materials, your Honor.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. Is the Bartlett-Hayward Company now and has it been for some time employing large numbers of skilled and unskilled labor? 22868

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial. The Bartlett-Hayward Company have been making ammunition for about four years, and making a hundred million dollars, without gross profits, I assume. That has not anything to do with the gas making business, your Honor, and it deals with Baltimore and not New York.

The Master: I will take the answer to that question. Have they employed men?

The Witness: Yes.

The Master: Labor, skilled and unskilled? 22869

The Witness: Yes.

Q. How large a working force have you employed recently?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Master: Where did you employ them?

The Witness: We have men employed in New York, in Chicago, and recently had in New Brunswick a large number, a very large number in Baltimore.

22870 Alten S. Miller, Direct.

Q. How large a force have you employed recently?

Mr. O'Brien: Wouldn't it be proper for him to state what he has in mind and not ask these questions? He is taking up our time.

The Master: My ruling as to what questions are for is intended for cross-examination.

A. We had over 21,000 employees within the last twelve months.

By the Master:

Q. How many in New York?

A. I don't know.

22871 Q. Three or four?

A. Oh, probably a dozen. During that period we had a great many more. We built about two million dollars' worth of toluol apparatus right around New York, and we employed a considerable number of men.

Q. During 1917?

A. During 1918.

Q. Before the armistice?

A. Yes.

Q. I am interested in how many men you had around New York?

A. We must have had several hundred of them

22872 working at that time, but we don't have them now.

By Mr. Ransom:

Q. Has your firm been engaged and is it now engaged in construction work and the use of materials and the employment of labor in construction work in various parts of the country?

A. Yes.

Q. Have you been and are you now familiar with the terms and conditions of such employment?

A. Yes.

Q. And with the rates of pay?

A. Yes.

Q. Are you familiar with the market conditions affecting the prices of materials such as are used by gas companies in the construction, maintenance and operation of gas plants, the manufacture and distribution of gas?

A. Yes.

Mr. O'Brien: I move to strike out the last question and answer as calling for a conclusion.

The Master: Motion denied. All these questions call for the conclusion of the witness. They are matters of opinion, they are not statements of fact. 22874

Mr. O'Brien: Exception. He asked him to state if he is familiar.

The Master: Yes, it is all a matter of opinion and conclusions.

Q. Colonel Miller, in your opinion, based on the knowledge and experience which you have described, are the prices for labor and for materials such as are used by this complainant, likely to recede to any material extent within the next several years?

Mr. O'Brien: Now, he is going into the tent of Gawtry and becoming a seer.

The Master: I am going to let him.

Mr. O'Brien: I will have to record the same objections as we did— 22875

The Master: You object to it as incompetent, irrelevant and immaterial.

Mr. O'Brien: Is your Honor going to ask the witness to make a guess?

The Master: I am going to take his opinion as an employer of labor and purchaser of materials, and familiar with the conditions more than I am, to give me his opinion. I may or may not be guided by his opinion.

Mr. O'Brien: If I come in with the report of a government bureau upon this will you deem it admissible?

The Master: I don't know. Wait until you offer it.

Mr. O'Brien: I mean on this point, as to the question of the rise and fall in the price of labor.

The Master: I will not answer at this time.

Mr. O'Brien: I am wondering now whether you are taking judicial notice of some of these things.

22877 The Master: No.

Mr. O'Brien: I think you have stated on the record that you will take judicial notice of the fact that we have had a war, and that there are unsettled conditions of labor, and Bolshevism in the country, and so on.

The Master: Yes.

Mr. O'Brien: How can the witness here, with the meagre qualifications set forth in the four or five questions just asked him, how can he come in and give us anything in addition useful, to use your Honor's expression.

The Master: It is a basis for cross-examination. This witness testifies that he is an employer 22878 of labor and purchaser of materials, that he knows the conditions, that he knows the conditions of manufacture and he knows the conditions of labor, that he is dealing directly with it. I only know about it from what I read and what I hear. I want this witness to tell me what in his opinion is the chance of a recession in the prices of material and labor in the next few years.

Mr. O'Brien: I object to it, it is entirely speculative, and you are compelled to judge the

future in a rate case from the present, from the conditions of this company, and you cannot indulge in the speculation that comes out of guesswork of this kind.

The Master: I have made my ruling. What is your opinion on that subject, Colonel Miller?

The Witness: My opinion is that there will not be any recession in the wages of labor, and that almost all of the material prices of today are predicated on present labor conditions, and therefore they will not materially change.

The Master: Within what period? 22880

The Witness: Within any period that we can see, that is, certainly not within the next three or four years.

The Master: It will depend very largely on the attitude of the government as to immigration, won't it?

The Witness: I don't think we can get enough immigration to materially reduce the price of labor, reduce the amount paid labor, without causing a revolution.

Mr. O'Brien: I am objecting of course to this. Will you direct the stenographer to enter my objection to each question? 22881

The Master: Yes.

Mr. O'Brien: Exception.

The Master: I don't know just how it is going to be worked out, but one thing is sure, that the situation depends very largely upon the immigration question, doesn't it?

Mr. O'Brien: I make the same objection.

The Master: Objection overruled.

Mr. O'Brien: Exception.

The Witness: I don't believe that you could get enough immigration to materially affect labor, the labor price.

The Master: Go ahead; next question.

Q. Coming back to the particular question which I asked you, in your opinion are the present prices for labor and for materials likely to recede to any material extent?

The Master: He has answered that.

Q. Your answer is what?

A. No.

The Master: I asked him within what period he referred to, and he said within any period that he could see.

22883 Q. Do you think that the present level of prices is likely to continue for a considerable number of years or an indefinite time in the future?

The Master: I will sustain that objection as already covered.

Mr. Ransom: You may cross-examine.

The Master: I shall postpone the cross-examination until Monday afternoon. My reason for doing that is that this witness has given testimony covering practically 51 pages of Exhibit 377 in a summarized form. I shall expect counsel for the defendants to analyze this testimony with the assistance of their experts, and then come in on Monday afternoon and ask those questions that

22884 go directly to an attack upon the accuracy of the witness's statement in some form, or upon the reliability of his testimony and opinions, or any other points. I think we will save a good deal of time by postponing the cross-examination.

Mr. Ransom: May I say also that what may be called the underlying detail or greater itemization of this exhibit is available, and if counsel for any of the defendants desire anything of that sort between now and Monday, and will confer with Colonel Miller and his staff, that opportunity will be afforded.

The Master: I shall expect counsel for defendants, assisted by their engineers and experts, to go carefully into the testimony of Colonel Miller and Exhibit 377, so that the questions asked on cross-examination will go directly to the development of some points, either showing Mr. Miller's incompetency to testify as an expert, or bearing upon the reliability and accuracy of the statements made. In other words, Mr. Miller somewhere in his paper says that it costs $967 to do something in December, 1913, and costs $1,594 to do it as of October, 1919. I shall assume that counsel will be prepared to take an item of that kind that they question, and go right to it, and not go fishing around and wasting time. Therefore, I am adjourning this until Monday afternoon, at two o'clock. 22886

Mr. O'Brien: As to the underlying data, I want to say this, that if the witness has that prepared he should turn it over.

Mr. Ransom: If they want to see working papers they will be shown.

Mr. O'Brien: He is going to be in Baltimore for the next few days. Why not let it be clear where he is going to be? Why hedge us with this kind of regulation, that we have to meet him, as we did Mr. Teele. 22887

By the Master:

Q. Colonel Miller, where will you be tomorrow between nine and five?

A. Tomorrow between nine and five I do expect to be out of town. Tomorrow is a holiday. Friday and Saturday and Sunday if necessary, I shall be at the disposal of Mr. O'Brien.

Q. Where?

A. I will be, by engagement on Sunday, at the office of the Consolidated Gas Company.

Q. And on Friday?

A. Consolidated Gas Company.

Q. And on Saturday?

A. In the forenoon I shall be there, and if they request it I will be there in the afternoon.

Q. Will you be at the office of the Consolidated Gas Company with all of your data, working sheets and other papers to which you might have to refer on cross-examination, Friday morning at nine o'clock?

A. Yes, sir.

Q. Will you be at the disposal of Mr. O'Brien and
22889 other counsel on Friday, Saturday and Sunday at such hours as they may request or suggest, day or night?

A. Yes, sir.

Q. You and your papers?

A. Yes, sir.

Q. So that they may familiarize themselves with everything you have worked on, so as to shorten the cross-examination?

A. Yes, sir.

Adjourned to Monday, December 1, 1919, at two P. M.

22890 Last Complainant's Exhibit 377.

Last Defendants' Exhibit AA-26.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, etc., *et al.* 22891

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, December 1, 1919.

Met pursuant to adjournment.

PRESENT: MR. RANSOM, MR. VILAS and MR. GOETZ, of counsel for complaint.
MR. CHAMBERS, of counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of counsel for Public Service Commission. 22892
MR. O'BRIEN, of counsel for defendant Swann.

ALTEN S. MILLER resumed.

Mr. Ransom: Before they start with Colonel Miller, I have had made up for purposes of convenience a summary of the Mayer testimony, with the references to the page of the court record. This is purely for information and convenience, to show where the different items are found, and I would ask to have it marked for identification, and I will furnish copies to the other side. There are two sheets. 22893

Papers marked Complainant's Exhibits 379 and 380 for identification.

Mr. Ransom: The first sheet shows summary of the testimony in respect to holder stations, and the second sheet with respect to manufacturing plants, with the references to the pages of the court record. Also a summary statement of Mr Simpson's testimony which is identical with the summary which was used on the former trial and was marked City's Exhibit 1 for identification on the former trial.

Marked Complainant's Exhibit 381 for identification.

Mr. Ransom: And in view of what was said when Mr. Teele was on the stand about the value of an eight months' statement, I have had a statement of revenues and expenses of the gas business of the Consolidated Gas Company for the twelve months ended October 31, 1919, made up, and I would ask to have that marked for identification at this time. I shall give copies to the defendants.

Marked Complainant's Exhibit 382 for identifi-
22895 cation.

The Master: Proceed, Mr. Chambers.

Mr. Chambers: If your Honor please, and if you are willing, I would like to suspend my cross-examination and give way to Mr. O'Brien and Mr. Clark, because my voice is very hoarse, and it perhaps may save time, and they may cover the whole field.

The Master: All right, go ahead, Mr. O'Brien.

CROSS-EXAMINATION BY MR. O'BRIEN:

Q. Mr. Miller, outside of your work with the Bartlett-Hayward Company, have you ever worked for
22896 any concern that was not a gas corporation or an electric light corporation?

A. I worked as consulting engineer, yes.

Q. You do consulting work for other kinds of companies and other persons than gas and electric light people?

A. Yes.

Q. Does the Bartlett-Hayward Company, outside the war work which they do, do any kind of contract work for companies other than gas companies?

A. Yes.

Q. What kind of work are they engaged in in that line?

A. They are manufacturing under contract a very large number of automobile parts; they are selling a large number of pneumatic tools; they do make—I don't know whether there are any pending contracts—a considerable amount of sugar machinery; at the present time they are putting in a large by-product plant in Clinchfield, West Virginia, for Blair & Co., of this city.

Q. Is that in connection with a gas works?

A. No.

Q. In connection with what? A. It is a briquetting plant, a plant to distill coal and make briquettes for 22898
fuel purposes.

Q. Does it make gas at the same time, or is it going to make gas?

A. Not for sale, no. It will make some by-product gas which will be burned for fuel in connection with the manufacture of the briquettes. The company has done a good deal of other work, has done some interior—has put in a considerable amount of interior iron work for office buildings. It does a certain amount of fire escape work and work of that class.

Q. Well, during the war period was there much work, or was your work on those matters abandoned and entirely given over to the ordnance work? 22899

A. No, it was not.

Q. Well, was it predominantly war work during the past four years?

A. The normal work was about as great as usual: the war work was very much greater than the regular work, but it did not cut down the volume of regular work.

Q. What proportion of the work that you have done during the past five years has been on a regular line?

A. In five years probably six or eight per cent.

Mr. Ransom: Are you referring to the question as of the company or Mr. Miller himself?

Mr. O'Brien: Bartlett-Hayward Company.

The Witness: But that is not because the current and regular work was small, but because the war work was large.

Mr. O'Brien: You answered my question. I move to strike out the volunteered statement.

The Master: Motion denied.

Q. How long were you in St. Louis with this company that you say you were connected with there?

A. I testified two years.

Q. And during that time did they erect any buildings?

22901

A. I do not think so. I do not recollect any buildings being erected during that period by that company.

Q. That was a holding company, wasn't it?

A. No.

Q. Was it a result of a combination of several companies?

A. Yes.

Q. Were you in when they were combined?

Mr. Ransom: Objected to as immaterial.

A. No.

The Master: It has been answered; he says no.

22902

Q. While you were with them, did they erect any holders or large pieces of equipment?

A. They put in a great deal of large—many large pieces of equipment.

Q. And you supervised it?

A. I was the president of the company, I was in touch with all of the work and let the contracts for the equipment and approved the bills for payment, studied the specifications, commented on them and modified them to the extent I felt necessary.

Q. Did you get up the drafts of the buildings and equipments?

A. No building was erected during that period.

Q. Did you get up the drafts or did you make the drawings for the equipment?

A. No. We bought the equipment according to the contractors design.

Q. From whom did you buy it?

A. A considerable amount from the Babcock & Wilcox Company, and a very large proportion from the General Electric Company.

Q. Why did you leave there?

Mr. Ransom: Objected to as immaterial.

The Master: I will allow it.

Mr. Ransom: Exception. 22904

A. Principally for climatic conditions, as I testified in the Kings County case, in answer to the same question. I preferred to come here to New York to form a partnership with Dr. Humphreys in the consulting engineering business. I thought it was better financially. I liked New York better than St. Louis.

Q. Well, you liked Baltimore better than New York later on?

A. Possibly; it pays better.

Q. About the same climate as St. Louis?

A. No, it is very different.

Q. Well, all told, how many years were you with the Consolidated Gas Company? 22905

A. Of New York?

Q. Yes.

A. Two years.

Q. That does not include that time with the East River Gas Company?

A. No. I was with the East River Gas Company, though, while I was with the Consolidated—that is with the New Amsterdam, while I was with the Consoldated.

Q. And then you did consulting work with the Brooklyn Union Gas Company?

A. I so testified in the Kings County case.

Q. Well, we are trying a Consolidated case now, Colonel.

A. Well, I did not testify. I have not testified here in this case that I did any consulting work for the Brooklyn Union.

Q. No. I recall that.

A. Yes. You got that from the Kings County case.

Q. What work did you do for the Brooklyn Union Company?

A. I consulted in connection with certain extensions in some of their plants.

22907 Q. What were they?

A. The installation of certain water gas apparatus.

Q. Did you make plans for it?

A. No.

Q. Well, tell us generally what it was.

A. I had been consulting with the engineer in charge of the particular plant regarding the types of apparatus to use in the operation of this plant, that is to install to make gas in this plant.

Q. What particular problem did they ask your judgment on?

22908 A. As to what type of apparatus to put in, how to arrange his plant and handle his coal and fuel or oil, and what general layout of the plant to make in order to work to the best advantage.

Q. Were they putting in a new plant then?

A. They were considering a new plant.

Q. Did they put it in?

A. No.

Q. They abandoned it?

A. Yes.

Q. The plan?

A. They abandoned the whole plan of building that plant.

Q. Were you under a regular salary with them, or was this by fee?

A. I acted as a consulting engineer for a special fee, not a regular salary.

Q. Did the Brooklyn Union make the arrangement with your employers at that time for your giving over some of your time to that work?

A. I don't know whether they did or not. They did not tell me that they did. I made arrangements with them, but I do not know whether the Brooklyn Union had previously made arrangements or not. It did not develop.

22910

Q. Do you know what—did you go with the permission, and did you do this work with the permission of the Consolidated Gas Company?

A. I most certainly did.

Q. Well, now, can you recall whether Mr. Carter or somebody connected with the Consolidated Gas Company recommended that you take up this work for the Brooklyn Union Gas Company?

A. I have stated that I do not know whether this question was ever taken up with the officers of the Consolidated Gas Company, with anybody or through anybody except myself. I do not think, as a matter of fact, that it was.

22911

Q. Did they pay you your compensation directly?

A. They paid it directly to me in person by check, drawn to my personal account, and that check went in my own bank account.

Q. Well, did your time while you were working for them—was that taken off your time with the Consolidated?

Mr. Ransom: Objected to, there is no materiality of this, many years ago, even before the prior case in 1902.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Mr. O'Brien: Your Honor—

The Master: I sustain the objection. Next question.

Mr. O'Brien: You will hear from me, I assume?

The Master: No, the next question.

Mr. O'Brien: Well, you seem inexorable about that. I want to present to your view something that I have in mind.

The Master: Mr. O'Brien, will you ask the next question?

22913 Q. Did you put up any other plants, build any portions of plants, personally put up any pieces of equipment in any company outside of the work for the Consolidated and the East River Gas Company?

A. Will you please define what you mean by personally putting up a piece of equipment?

Q. Well, you understand what I mean.

A. No, I do not.

Q. I use the words in their ordinary significance.

A. In the ordinary significance, I would expect that to mean the actual laying of brick myself, and actually putting my shoulder to a piece of equipment and putting it in position. I did not do that.

22914 Mr. O'Brien: I press my question, and I ask that the witness be admonished not to engage in conversation or colloquy with me while on the witness stand.

The Master: Repeat your question.

Mr. O'Brien: Will the stenographer read the question?

(Question read by stenographer as follows):

"Q. Did you put up any other plants, build any portions of plants, personally put up any pieces of equipment in any company outside of the work for the Consolidated and the East River Gas Comany?"

Mr. Ransom: I object to the question as vague, and indefinite as to time.

The Master: I will let the witness answer it as best he can. I think he has answered it.

A. I had the plans made, let the contracts, drew the specifications, approved the bills, of all the apparatus in the plant of the Hyattsville Gas and Electric Company; very large amounts of apparatus, buildings, holders and other machinery of the Consolidated Gas Company of Baltimore; I built the holder and governor house of the Omaha Gas Company; I built certain apparatus in Streater, Illinois; I built the entire plant of the East River Gas Company of Long Island City. 22916

The Master: It sounds to me as if we were going over what he said on direct. That I will not allow.

Mr. O'Brien: I am asking the witness what he personally put up. I didn't ask him what was done by contract by some firm that he may have been connected with. If he is giving a repetition of his testimony that is something I don't want. I want something new.

Mr. Ransom: The question was purposely left vague. 22917

The Master: I am sure I don't want it.

Mr. O'Brien: I will get down to it, your Honor, with a few questions, if the witness will not be evasive, and will give a direct answer to a direct question.

Mr. Ransom: The witness has shown no disposition to be evasive. I have asked that this question be made somewhat more definite, and counsel did not do it.

The Master: Next question. What did you personally have to do with these various things?

Q. Take the Omaha Company?

The Master: Did you draw plans and supervise the work, hire and discharge men?

The Witness: I drew the specifications, I had the drawings made under my personal direction—

The Master: Are you talking about Omaha?

The Witness: I am. I made the drawings of the holder myself, I actually made that drawing myself when I was with the United Gas Improvement in Philadelphia. When I went to Omaha I went over the specifications with the

22919 superintendent. The contract was made by the superintendent with my advice. I personally supervised the work, and personally approved the bills, personally checked up all the layout, and personally inspected the construction, that is, the iron work and the mason work.

Q. For the holders?

A. For the holders and governor house.

The Master: Take some other job and tell us what you did.

The Witness: The East River Gas Company of Long Island City, after the first unit, which had been assigned before I came there, I made

22920 the complete layout, that is, I had draftsmen working on it, but I personally indicated every layout, I indicated all the specifications, in fact drew the specifications, indicated everything that was to go on to the drawing. I do not mean that I would show each member of a building, but I would say that the strain would be 13,000 pounds, and the tension 8,000 pounds compression, and the spans must be a certain figure, there should be a certain number of bents in the building, and had the draftsmen lay them out. I personally designed the floor under the purifier house. I

laid out all the clearances in the generator house, and passed on every detail of construction. I let the contracts myself, I made arrangements for such inspectors—I hired all the men in the plant—when I say I hired them, I don't mean I personally hired anybody except the engineers and men in the higher positions, but I had charge of the hiring and discharging of every man.

Q. What was your title?

A. Engineer of the East River Gas Company in Long Island City.

Q. Were you chief engineer? 22922

A. No, there was no such title as chief engineer.

Q. Who was your superior in the engineering line?

A. Nobody.

Q. Were you not subject to Mr. Bradley?

A. No, he had no interest in the company at all.

Q. Was the East River then a subsidiary of the Consolidated Gas Company?

A. No.

Q. Were these holders put up by the Bartlett-Hayward Company?

A. No. The No. 4 holder was put up by the Bartlett-Haryward Company. The No. 3 holder was built under my supervision—

Q. You mean you bought the material, you assembled the work and put them up there yourself? 22923

A. Let me testify, please. No. 2 holder was built before I came with the company. No. 3 holder was built under my supervision by R. D. Wood & Company, of Philadelphia. The pipes were put in the tunnel under my immediate supervision. They were designed by me—one set of pipes were extra heavy pipes, the vertical pipes were designed by me, so that other than the first sections of the plant, which had a nominal capacity of 6,000,000 feet, I personally de-

signed everything in the plant. When I went to Baltimore I took with me, with the consent of the company, a complete set of drawings of that plant, and as far as possible followed the layout. Of course no two plants are exactly alike, and I had to change things to quite some extent, but all the changes there were made according to my personal instructions.

Q. Now, I will come back to the East River. I didn't ask you about the East River Company myself, I will come back to that, but I will get back to Omaha for a minute. In what capacity did you work for the

22925 Omaha Company?

A. Assistant superintendent.

Q. Who was the superintendent there at that time?

A. Mr. Isaac Battin.

Q. And you took charge of the erection of a certain holder and governor house there, did you?

A. I was under Mr. Battin in erecting that holder and governor house. I was the resident engineer so to speak. That is, the holder and governor house were not at the plant.

Q. You were engineer at the holder, were you?

A. I was about two miles from the plant. I spent my time during the erection at the holder and governor

22926 house.

Q. Prior to going with them you were with the U. G. I. of Philadelphia?

A. Yes, sir.

Q. You were selling implements and equipment?

A. No.

Q. What were you doing?

A. I was in the engineering department, making drawings and designs.

Q. You were on the road for them, too, weren't you?

A. Not at that time.

Q. I didn't name any particular time.

A. But you were talking about a particular time.

Q. You were on the road for them, you went from place to place selling stuff they had to sell, isn't that correct?

A. At a later date.

Q. How long were you doing that kind of work?

A. Two years.

Q. What was your title with them?

A. I was first the general manager of the National Gas Construction Company—

Q. That is a subsidiary of the U. G. I., isn't it? 22928

A. National Gas Light & Fuel Company, I believe they called it. That was owned lock, stock and barrel by the U. G. I. After about a year I closed it up, and just called myself western sales agent of the United Gas Improvement Company.

The Master: We have heard all of that before. Let us get to something useful, Mr. O'Brien.

Mr. O'Brien: Your Honor, this is a very important matter.

The Master: Do you say that Mr. Miller is not a competent expert?

Mr. O'Brien: Do I say it? 22929

The Master: Yes.

Mr. O'Brien: Yes, I do say it, I say he is disqualified from testifying in this case, and I want this record to show just what work he has been doing, and what his connections are.

The Master: Why is he disqualified? What is the theory of disqualification?

Mr. O'Brien: Well, I might say in a great many ways. You would not call a homeopath into your household, would you?

The Master: You will proceed to cross-ex-

amine this witness as to testimony given by him as an expert. I will not permit any further questions on qualifications.

Mr. O'Brien: I want to bring out the affiliations of the witness.

The Master: It doesn't make any difference what his affiliations are.

Mr. O'Brien: It makes all the difference in the world to my point of view.

The Master: Not to mine. I will not allow it.

Mr. O'Brien: I want to bring out the fact of his connection with the United Gas Improvement
22931 for a couple of years, his jumping around the country from one place to another. This all goes to the question of his knowledge of values, to the question of his bias, to the question of his general disqualifications to be a witness in this case.

The Master: Mr. O'Brien, if you have any questions to ask about Complainant's Exhibit 377, you had better proceed to ask them.

Mr. O'Brien: Will your Honor permit me to make the record?

The Master: I will not let you ask any questions about disqualifications. If you ask any ques-
22932 tion about disqualifications I will end your cross-examination. I can't be any blunter than that about it, can I?

Mr. O'Brien: That is pretty blunt.

The Master: Get to Exhibit 377.

Mr. O'Brien: I take an exception to your Honor's ruling.

The Master: Now, you are protected, go ahead.

Mr. O'Brien: I propose to go into the witness's affiliations—

The Master: I have told you I will not allow that.

Mr. O'Brien: Won't I be permitted to make a statement on the record?

The Master: Mr. O'Brien, you will ask a question on Exhibit 377.

Mr. O'Brien: For instance, I want to bring out his connection with Dr. Humphreys, who testified in the other case—

The Master: Mr. O'Brien, do I talk plain English? Do you want to ask a question about Exhibit 377, or don't you? 22934

Mr. O'Brien: I want to ask a good many questions about Exhibit 377.

The Master: Ask them, because if you don't I will end your cross-examination. I have said it twice.

Mr. O'Brien: There are a great many questions I want to ask, and I am in doubt whether they come within your ruling that you have just made, and the only way to find out is to ask them.

The Master: You had better ask a question challenging his figures on any one of these sheets, or I will stop your cross-examination.

Mr. O'Brien: I want to bring out the witness's 22935
connection with Dr. Humphreys.

The Master: Have you any questions to ask, Major Clark?

Mr. Clark: Yes, sir.

The Master: Proceed.

Mr. O'Brien: Your Honor—

The Master: I have ended your cross-examination, your opportunity to cross-examine.

Mr. O'Brien: Does that mean that I am not going to ask the witness as to his theories of depreciation?

The Master: That means precisely what I say. Now, if you will not submit to my rulings I am going to enforce them in the only way I can enforce them.

Mr. O'Brien: I assume from your ruling that you have had sufficient on the witness's qualifications. Now, there is another branch of the testimony that does not have to do with figures, and that is the question of depreciation.

The Master: I am going to interrupt you once more, and I am going to give you one more
22937 chance. I have told you if you want to ask a question about Exhibit 377 go ahead.

Mr. O'Brien: I note an exception to your Honor's ruling.

The Master: That is the way to protect yourself. If I make a ruling take your exception and go ahead.

Mr. O'Brien: May I ask one question right here, for my own guidance?

The Master: Yes.

Mr. O'Brien: Am I to assume that your Honor is not going to permit me to go into the witness's theories generally on depreciation to the cases in
22938 which he has testified on depreciation?

The Master: Does this schedule, Exhibit 377, have anything to do with depreciation?

Mr. O'Brien: Of course. Certainly, it has everything in the world to do with it.

The Master: Then, of course, I will. Get to it.

Q. Col. Miller, in what proceedings have you testified as a witness, that had to do with the making of rates?

The Master: Objection sustained. I said I would not permit any more questions about quali-

fications, or as to where he has testified, who he is married to, or who he ever worked for. If this witness in this Schedule Exhibit *377* has said anything about depreciation and that is not in accord with something he said somewhere else, direct his attention to it in the proper form, namely, "You say here that you take a certain amount for depreciation; did you testify as a witness in a certain case, and do you remember being asked this question and giving this answer" —and if it is in conflict with what he says now I will take notice of it. You will either proceed or I will stop this cross-examination. It has got to stop. 22939 22940

Mr. O'Brien: Before I proceed with the questions your Honor wants asked, I move that the testimony of the witness be stricken out, on the ground that he has not shown himself qualified to give testimony as to the cost of erecting the equipment at the time specified, that he has not shown himself qualified to testify to either the value or the cost of erection or the depreciation in buildings and equipment in the present case.

I want to say before your Honor closes that up that there are a number of matters that may not appear to be covered in my exception, to which I want to direct the witness's attention—his connection with the Consolidated Gas Company— 22941

The Master: Do not repeat it, Mr. O'Brien.

Mr. O'Brien: Well, your Honor makes your ruling and I take my exception.

The Master: Your motion is denied. You take your exception.

Q. Colonel Miller, did you make, in connection with your work or with your testimony in this case,

an appraisal of the plant and equipment and buildings of the complainant company?

A. No.

Q. When did you first discuss the matter of your work for this company with the representatives of the complainant company?

A. In September.

Q. Didn't you testify in the Kings County case that you went over matters relating to rate cases with the representatives of this company a year ago?

A. Not in connection with this—this particular

22943 work, no.

Q. Did you discuss with them depreciation?

A. I have discussed for many long years the question of depreciation, with my friends in that company.

Q. Have you discussed it within the last two years?

A. I have discussed it more or less every time I have seen them.

Q. How often have you seen them?

A. I have seen them many times, many times.

Q. The Bartlett-Hayward Company does work for them and has been doing work right along?

A. I have so testified.

Q. What do you mean by many times?

22944 The Master: The question is not allowed.

Mr. O'Brien: Exception.

Q. Have you made a tentative appraisal of their property?

A. Yes.

Q. Did you submit it to them?

A. No.

Q. Was it as a basis for these figures which have been set forth in Exhibit 377?

Mr. Ransom: I object to this line of inquiry.

The Master: I will allow it.

Mr. Ransom: May I just say why I object.

The fact that he may have done some work for this company or for other affiliated companies, in connection with proceedings pending or prospective, does not alter the fact that all that he has been called for here is that concerning which he has testified on his direct-examination on Wednesday.

The Master: The question is allowed as a proper question to the witness.

Mr. Ransom: Exception.

A. No.

Mr. Ransom: I am sure it cannot be proper cross-examination. 22946

The Master: You are sure?

Mr. Ransom: Yes.

The Master: I say it is.

Mr. Ransom: If they want to make him their witness on things as to which he has not been interrogated in behalf of the complainant, that is another thing; but I do not see upon what theory that would become cross-examination.

The Master: Did you make it as a basis for the preparation of this exhibit?

The Witness: I said no.

The Master: Next question. 22947

Q. Was your answer yes?

A. No.

Q. Did you have before you any data showing the dates of erection of these pieces of equipment, when they were put in?

A. No.

Q. Did you seek it?

A. No.

Q. Did you make any inquiry about it?

A. No.

Q. Did you know from your former connection with the company?

A. I knew some few pieces that I put in, yes.

Q. And outside of those that you put in yourself, or that were put in at the time that you were connected with the complainant company, you did not care to go into the question of when they were installed or how long they had been there?

A. I did not care to go into the question in any case, whether I had put them in or not.

Q. The dates when they were put in, the time that
22949 they had been there—did you inquire into that at all?

A. I just testified I did not.

Q. Why?

A. Because I was not interested.

Mr. O'Brien: Your Honor, I submit that the witness—

The Master: The witness has answered the question.

Q. Why were you not interested?

A. I don't know—because it made no difference to me—

Q. Then why—

22950 A. Let me finish, please. Because it made no difference to me one way or another what time they were put in.

Q. Then under your theory, if they were there fifty or seventy-five years, it would not make any difference with the present value of this property, provided you spent the dollars you set forth here on Exhibit *377*; is that your position?

Mr. Ransom: I object to the question. The witness has not testified to any theory; the witness has testified to a fact, that it would take certain amounts of money to do indicated things.

Mr. O'Brien: This witness will take care of himself without having you to assist him, Judge. I want to demur to your getting up to give the witness any answer.

Mr. Ransom: The witness does not need the indication of any answer.

Mr. O'Brien: If he is a qualified witness he does not need your contribution.

Mr. Ransom: You know whether he is qualified better than anyone in town.

Mr. O'Brien: Your Honor, if counsel will state his objection and you pass on it— 22952

The Master: I know, but I will let him proceed, if he thinks it helps his case.

Mr. Ransom: I wanted to make my objection when I was interrupted.

The Master: It is a perfect waste of time.

Mr. Ransom: What is the ruling?

The Master: I am going to allow the question.

Mr. Ransom: Exception.

A. Read the question, please.

Q. Then under your theory, if they were there fifty or seventy-five years, it would not make any difference with the present value of this property, pro- 22953 vided you spent the dollars you set forth here on Exhibit 377; is that your position?

A. It is simply a question of fact: The expenditure of that money would put the property in the condition in which it was when new.

Q. Is that the reason, the one I have just indicated? By the Master:

Q. It would not make any difference how old it was?

A. Yes. How old this property was?

Q. It would take the same expenditure to put it

22954 Alten S. Miller, Cross.

in the condition it was when new, whether it was fifty or seventy-five years old?

A. If it was properly maintained.

Q. You have testified that a certain expenditure of money would put these properties in a condition as good as new?

A. Yes, sir.

Q. I assume that that has in mind already the use to which it has been put and whether it has been properly or improperly taken care of?

A. Yes.

22955 Q. And it does not make any difference in your judgment, as to what it will cost to put it in the condition it was when new, as to what the age of the thing is?

A. No, sir.

The Master: Next question.

By Mr. O'Brien:

Q. How far did you go to find out whether any piece of equipment had been properly maintained?

A. I stated I examined everything, every piece of equipment, every building, everything they had.

Q. Did you go into the books or the records of the company to find out how much had been spent on

22956 these pieces in the past to put them in repair and keep them in repair?

A. No, the evidence is in the piece itself.

The Master: No, answer the question.

The Witness: No.

The Master: Did you look into the books at all?

The Witness: No.

Q. How could you determine whether a given piece of equipment had been well maintained unless you went into the records to find out how much had been spent on it in the past?

A. By the inspection of the building or equipment.

Q. You mean the superficial inspection of the plant would give you all the necessary information?

A. The complete inspection of the plant would give all the necessary information.

Q. How much time did you spend, how many days did you spend, in this work?

A. I spent a considerable amount of time—

Q. Just get away from the adjectives, Colonel, and give the time. I want it in hours.

A. I have not got it in hours. I do not keep my time that way. 22958

Q. How many days were you there? When did you begin?

A. I don't know.

The Master: Do not ask him two questions. When did you begin?

The Witness: I began in September.

Q. What day in September?

A. (Witness consults notebook.) September 24th

Q. State what days after that you personally spent on the work of preparing these figures and giving your testimony in this case?

A. Some part of practically every day since, and many times all day. 22959

Q. Tell me what did you do on September 25th?

A. (Consulting notebook.) I arranged for office space.

Q. Keep your book out, Colonel; I will ask you questions about it.

A. I arranged for office space and consulted with the officers as to going ahead with the work—

Q. (Interposing.) With whom did you consult?

A. I don't know, except the officers of the company.

The Master: What do you mean, you don't know?

The Witness: Well, I say I consulted with the officers—well, let me see, I probably could recall. I consulted with the superintendent of the building about space for an office; I consulted with Mr. Morris' stenographer about using his library.

Mr. Morris is the constuction engineer of the company.

The Master: Yes, but the stenographer is not an officer of the company.

The Witness: Well, I was mistaken when I said officers. I did not consult officers. I should

22961 have said the people in the company.

Q. With what officers did you deal in making arrangements to take up this work, Mr. Carter?

A. Yes.

Q. With the attorneys in the case?

A. With the attorneys.

Q. Did you have any discussion with Judge Ransom about this case?

A. Yes.

Q. Frequent discussions?

A. A number of them, yes.

Q. You discussed with him the questions or the theories of depreciation?

22962 A. No.

Q. Did you tell him before you went to work just what you had in mind?

A. Surely.

Q. Did you give him your general ideas of the immortality of the plant equipment when properly maintained?

A. I did not say anything about immortality or plant equipment or properly maintained, no.

Q. Did he map out the work for you, that you were to do?

A. No.

Q. Did he tell you that you did not need to make an appraisal of the plant before you determined the amount of depreciation there was in it?

A. No.

Q. Did you discuss this matter with Mr. Carter very frequently?

A. Frequently, yes.

Q. How frequently?

A. Probably a dozen times.

Q. What did Mr. Carter tell you about the case?

A. He did not tell me anything.

Q. What did he say to you about the case? 22964

A. He said, "Go ahead and make the appraisal" and he asked me how I was getting along, and he put all sorts of pressure on me to finish it; usually told me I was too slow.

Q. Did he tell you he wanted an appraisal made? What were his words to you when he hired you to do this work?

A. It sounds nicer to say retained. He told me to go in and see how much it would cost to put his plant in the condition in which it was when new.

Q. Were those the words he used?

A. As far as I recollect; something to that effect. I don't know whether it is exact, but something 22965 to that effect.

Q. Did he tell you he did not want you to apprais. the property?

A. Appraisal was never mentioned.

Q. Did he tell you he wanted you to determine how much it would cost to put this plant in the condition in which it was when it was new?

A. Yes.

Q. Is that the language he used?

A. So far as I can recollect, yes.

Q. Did you discuss it with Mr. Cortelyou?

A. No.

Q. With Mr. Brady?

A. No.

Q. With anybody in Shearman & Sterling's firm?

A. Not as far as I know. I do not think any of these gentlemen present are connected with—yes, Mr. Vilas. I discussed it with Mr. Vilas.

Q. Did they discuss with you your testimony in the Kings County Lighting Company case?

A. No

Q. Did not mention it at all?

A. I do not recollect its being mentioned. Cer-

22967 tainly it was not discussed.

Q. What did you do on September 26th?

A. I don't recollect.

Q. Will you consult the papers which you have, the book in your pocket, and tell us just where you were and how much of inspection you did on that day, and where you went?

A. There is nothing here to show how much inspection I did. I might have some note as to the plants. The notes are very brief, about three lines (consulting notebook). I spent the time principally at the office of the company and in contact with several contractors—

22968 Q. (Interposing.) Who were they?

A. (Continuing.) Trying to arrange to get together a staff to supplement my staff in connection with the work.

Q. Who were these contractors?

A. There was Post & McCord.

Q. Who of Post & McCord did you talk with?

Mr. Ransom: I object to it as quite immaterial—the person to whom he talked about getting subordinates to assist him in his work. The question of what employees he did have is one thing, the question of whom he talked with about

getting men to do routine clerical work on this thing is another.

The Master: Objection overruled.

Mr. Ransom: Exception.

A. I talked to Mr. R. C. Post, a friend of mine, and whom I have known for a great many years.

Q. Well, that does not make it any better on this record, Colonel.

The Master: Next question.

Q. That friendship stuff you can omit and give me the direct answer.

The Master: Next question. 22970

Q. What was your business with Mr. Post? Did you ask him for information that you used in this?

A. No.

Q. Did you arrange for your men to get information from him as to the cost of doing some kinds of work?

A. No.

Q. Did you ask him for information as to how much certain mechanics got in 1914?

A. No.

Q. Did you ask him for the cost of material?

A. No.

Q. Did you ask any of these other contractors that you say you consulted? 22071

A. No.

Q. What was your purpose, then, in consulting with them?

A. What I have stated, to try to get some men.

Q. Did you get men?

A. Yes.

Q. Who are they?

A. Mr. Hatch.

Q. You got him from Post & McCord?

A. And Mr. Knapp. I don't remember getting any others.

22072 Alten S. Miller, Cross.

Q. Did they come from Post & McCord to you?

A. No.

Q. From whom?

A. They did not come from any company to me; they were recommended by Mr. Harrison, I think his name is, the chief estimator of the Fuller Company.

Q. What did Mr. Post say to you, that he did not have anybody to give you?

A. He did. He said if I had anybody he would be very glad to hire them; he was short.

Q. Well, you took these men over from the Fuller
22073 Construction Company because they were in the building line?

A. I just stated I did not take them from the Fuller Construction Company; they were simply recommended by the Fuller Company, by Mr. Harrison, I think it is.

Q. Had they been working up to that time with the Fuller Company?

A. No.

Q. For whom had they been working?

A. Both of them have been independent contractors.

Q. Mr. Hatch?

22074 A. Yes.

Q. New York City?

A. No.

Q. Where?

A. I think it is Orange or some place in New Jersey, around the Oranges.

Q. What was the other gentleman's name?

A. Knapp.

Q. Where had he worked?

A. He had worked in a great many places, but his home was in Lawrence, Massachusetts.

Q. You mean his home at the time he was working for you?

A. His home at the present time is in Lawrence, Massachusetts. His home when I hired him was Lawrence, Massachusetts.

Q. What kind of work did you put them at?

A. I put them on the building.

Q. Did you get any other men to work on the buildings?

A. No.

Q. Did they do all of the work on the buildings for you?

A. No.

Q. Some of your own staff? 22976

A. I had some of my own staff in the calculating work, yes, but not on the buildings themselves.

Q. Who were they?

A. Graham.

Q. He is still with you?

A. Oh, yes. And I have a pretty big staff who worked there. I am just trying to sort them out, various kinds of work going on, I am just trying to sort out this particular job from the others. I do not recollect.

Q. Do you mean jobs for other companies contemporaneously done?

A. Yes. I do not recall at the moment who else 22977
worked on buildings besides those three.

Q. Well, whom did you have on the equipment?

A. Krekel, Weiss, Graham also worked on equipment work, Graham brought the figures together under my supervision, and Major String worked on this.

Q. Major, did you say?

A. I said major.

Q. Is that a title, or is it his first name?

A. That is his title. There are one or two other men there in the office that have done some work on this, but I do not remember just who were working on this work.

22078 Alten S. Miller, Cross.

Q. You don't know now which one of these men did this kind of work and which did that kind of work, you cannot specify that now?

A. Oh, there was no special subdivision of the work, I simply put men helping, and from time to time one man would be called on to do something else.

Q. Well, have you got the program now with you or have you it in your office, that shows us just how that work was laid out, and where Graham went to work?

A. No, there is no program.

22079 Q. And where others went to work, Weiss, for instance?

A. No program was ever made, nothing was ever laid out, I simply sat there and directed it.

Q. You sat where, in your office?

A. In the office and directed it, and then went out.

Q. Well, now, we got to the 25th. What did you do on the 26th?

The Master: You asked about the 26th.

Q. Yes, the 27th now?

A. I examined the 21st and 14th Street stations of the company.

Q. Colonel Miller, do you mean to say you did that all in one day?

22080 A. No, I simply examined it in one day, but I did not complete my examination, and I am not through yet.

Q. When you went to the 21st Street plant, did you go over the whole plant in one day?

A. I did not.

Q. What part did you go over?

A. I walked over the whole plant at that time.

Q. You walked over it?

A. Yes.

Q. The whole plant?

A. I walked through the plant, yes; I walked through that plant and I walked through the 14th Street plant the same day.

Q. What do you mean by walking through it?

A. I mean I went through the door there, went to the office and asked for the superintendent, and asked him to show me around, and I went through the office and from the office I walked through the building and all around through the building and looked at the apparatus and building and walked around through the yard, looked at the cornice and the outside, and went 22982
to the office building and walked around it on the outside and looked around it, and walked in it and looked over the apparatus and the building, and I went building by building and walked around the outside and looked it over and walked around the inside and looked over the building and looked over the machinery in the building and watched the machinery run and felt the generators, and similarly—

Q. Just stop a minute—

A. Let me finish.

The Master: Let him finish.

A. Similarly I went to every building in the plant, and then I walked around the oil tanks and looked 22983
them over and walked around the holders and looked them over, and I did not climb on the holders and I did not climb on the roof and I did not make any close inspection on that day.

Q. How long did it take you to do that, what you have just described?

A. About two hours.

Q. And you did all the rest—then you went from there to the other plant?

A. Went to the 14th Street plant.

Q. 14th Street plant?

A. And spent about two hours there.

Q. About two hours?

A. Yes.

Q. And you walked around there?

A. Yes.

Q. Did you make any notes?

A. No.

Q. Not a note?

A. No.

Q. How long did you spend in the generator house at 21st Street?

A. I do not know.

22985 Q. Approximate it?

A. I could not tell you within an hour.

Q. How many of the machines did you see operating at that time?

A. I don't know.

Q. How many do you think?

A. I don't know.

Q. How many generating machines are there at 21st Street?

A. I do not recollect.

Q. Could you approximate it?

A. I might, but it might be considerably wrong.

Q. Will you say how many were in operation at

22986 the time you were there?

A. I just stated I did not know.

Q. How many men did you see in the generator house, approximately?

A. I don't know.

Q. Did you take up the gas maker's reports at that time and look them over?

A. No.

Q. To see any of the operations?

A. I said no.

Q. Did you go in the superintendent's office and go over the manufacturing book?

A. No.

Q. Did you ask to have it?

A. No.

Q. Did you consider the facts set forth in the manufacturing book necessary or at all helpful in the work that you were doing?

A. Yes.

Q. Did you consult them later?

A. Yes. Not the manufacturing book, but I consulted the manufacturing reports.

Q. In the 14th Street station none of the machinery was in action, was it?

A. Not at that moment, no. 22088

Q. No boilers were fired, were they, while you were there?

A. Yes, one was under fire.

Q. Over at the governor house?

A. No, I think it was near the office to keep them warm, is the best of my recollection.

Q. To keep them warm?

A. That is my recollection.

Q. To keep the men warm?

A. Yes.

Q. There was only one there to be kept warm, wasn't there?

A. One man? 22089

Q. Yes.

A. No, a good many more than one.

Q. How many men, Colonel Miller, were there in the office to be kept warm, the day you were there? You say a good many more than one?

Mr. Ransom: I object to the question as not within the scope of cross-examination here.

The Master: I will allow it.

The Witness: In the office itself there were only two men, but there were men in the repairing and fixing up the group of buildings that are heated from that boiler that heats the office.

Q. How many men did you see altogether around that place, the whole station, on the day you were there?

A. I did not count them. They told me there were twenty-one.

Q. Who told you that?

A. The superintendent.

Q. Mr. Merifield, was it?

A. No, I forget his name, the superintendent at that station. Mr. Ritchie, I think.

Q. Mr. Ritchie?

22991 A. Yes.

Q. And he said we have twenty-one men here?

A. He said twenty-one, and from the number I saw there I am well prepared to believe it, although I did not count them, I could not swear there were over fifteen, and I could not swear there were not thirty, but there were men working around in various portions making repairs.

The Master: How did the question of the number of men come up at all?

The Witness: I asked him.

The Master: For what purpose?

The Witness: Just for information. The plant

22992 was shut down, and I just asked him how many men they kept around the place like that when it was shut down, in order to keep it ready.

Q. Did you go into the so-called coal house?

A. I do not know what you mean.

Q. At the 14th Street station?

A. I do not know just what you mean by that.

Q. Well, they told you there was a coal storage building, didn't they?

A. Oh, I went into the coal storage shed, yes, surely.

Q. Do you know where it is located?

A. Surely.

Q. Where is it located?

A. It is located at the east end of the plant.

Q. And it was filled up with these cohune nuts, was it?

A. No.

Q. This material for carbonizing purposes?

A. No, it was not filled with them at all.

Q. Was it partly filled with them?

A. Why, I suppose there was a few of them around in one corner.

Q. Two or three men around there to watch them?

A. No, not so far as I could see. 22994

Q. Did you see a watchman watching them?

A. No.

The Master: Are you cross-examining this witness as to the work he did?

Mr. O'Brien: Yes.

The Master: Well, let us get to it.

Q. Did you do any further work that day, Colonel?

A. Not on this case, so far as I can recollect, or so far as my notes indicate.

Q. What did you do on the 27th?

The Master: This is the 27th.

Q. The 28th?

The Master: I will let you take one more day. 22995

Do you want the 28th or do you want some other day in October?

Mr. O'Brien: Well, if it will please your Honor, I will try and summarize my question.

The Master: It is not a question of pleasing me, it is a question of limiting this case somewhat.

Mr. O'Brien: Well, I want to bring out the other matters.

The Master: I will let you take the 28th, if you want it. I am telling you now this is the last

day I will let you take. Would you rather have some other day than the 28th, in view of what I have said?

Mr. O'Brien: Well, let me ask the witness a question.

Q. When did you finish this work?

A. I did not finish; it is under way now. I consider it is testifying

The Master: When did you finish your inspection to prepare your schedules?

Mr. O'Brien: You don't need to hand that kind of stuff to me, it won't get us anywhere in this case.

22997

The Master: When did you finish the work on which this statement is based?

The Witness: About a week ago.

The Master: Next question. What do you want him to tell you what he did do.

Mr. O'Brien: I don't see what your Honor's purpose is in asking for some one day.

The Master: Mr. O'Brien has asked you to tell him what you did on the 28th of September. Answer that question.

The Witness: In the morning I took a walk in the house and garden; in the afternoon I took an automobile ride to Flushing and saw Mr. Fox, and had a walk in Flushing and returned to Great Neck at nine o'clock, took the train—returned to Great Neck and took the train at nine o'clock and went to New York and went to the hotel and went to bed.

22998

The Master: What day of the week was that?

The Witness: Sunday.

The Master: I didn't know anything about.

Mr. O'Brien: I don't wonder that you are called Colonel. I would not let anybody call me Colonel if I was a witness.

The Master: I suspected something like that might happen. Next question.

Q. What did you do on the 29th?

The Master: I won't allow it.

Mr. O'Brien: Will your Honor permit me to ask the witness some questions that will bring out just the quantity of time spent each day on this work? He said he spent a portion of every day.

The Master: I let you go over half an hour, trying to see if you were going to do it or not, and I won't allow any more questions on it. 23000

Q. Was the examination you made of the other plants done in the same way that you have testified you examined 14th Street and 21st Street?

The Master: I don't think that question is entirely fair to the witness. The witness said that he made this very general examination of the 21st and 14th Street plants, and that later on he looked at them in detail. You might ask him as to the details as to 21st Street.

Q. When did you give it a detailed examination at the 21st Street plant?

The Master: I want to give you every opportunity to challenge the witness's reliability, but I will not let time be wasted, it is getting too precious. 23001

Mr. O'Brien: Your Honor, what is going to be brought out is this, it is utterly impossible for this witness, even if he gave it all his time, within the time, to do the work which is represented in the figures that have been presented.

The Master: I gathered that is your point.

Mr. O'Brien: And not only that, but when we get down to it is a question of the work being of such a kind, the inspection of such a kind and character—

The Master: Take one plant, take the 21st Street plant and test him on that.

The Witness: I made examinations on the 29th, 30th, October 1st.

The Master: Of the 21st Street plant?

The Witness: Yes.

Q. How long a time?

A. Wait a minute. October 9th, October 10th, October 13th, October 16th, October 17th, October 20th. Those are all I have notes of. I may or may not have been there at other times, these notes are very brief.

23003 Q. Do your notes show how long you spent at the plant?

A. No.

Q. Are you able to say how long you spent at the plant on these occasions?

A. No, I cannot.

Q. Now, that I may speak with some confidence about some subject in connection with your work, will you tell me about how many days you spent parts of in examining the 99th Street station?

A. September 30th, October 7th, October 8th, October 15th. Those are the only notes that I have. I do not recall whether I was there on other occasions

23004 or not.

Q. Can you tell about how many hours you spent altogether on that work?

A. No.

Q. Would ten hours cover it all?

A. No, I don't think so.

Q. Twelve say?

A. I don't think so.

Q. Can't you give us your best memory on that?

A. It is rather hard to go into any figures, anything exact. I was there on some half dozen occasions, probably three or fours hours on an occasion, four or five hours possibly.

Q. Do you know when the office building was erected?

A. No.

Q. You made no examination of any foundations, did you?

A. Not directly.

Q. At 99th Street?

A. Not directly.

Q. Did anybody do it for you?

The Master: What do you mean by "not directly"?

A. I examined the foundations by examining the 23006
building. If a foundation is not good the building will settle, and in several cases I had to figure on replacing foundations because the building had settled. So, I consider that indirect examination of foundations.

Q. Did you find that they had settled anywhere?

The Master: Objection sustained. The witness just told us that he did.

Q. Did you look the engine house over there?

A Where?

Q. 99th Street.

A. Yes.

Q. Was that one of the buildings that you found needed some foundation work? 23007

The Master: I will sustain that objection, because if he did, it will be on that schedule.

Mr. O'Brien: It does not appear, your Honor.

The Master: Then he didn't.

Mr. O'Brien: He doesn't state.

The Master: I will not allow that kind of question; it is a useless question.

Mr. O'Brien: From the witness's answer it did not appear whether he meant generally that he figured on foundations where he found that the building had settled or whether he meant that at 99th Street in several instances he had so figured.

The Master: Next question.

Q. Did you examine the walls of the engine house?

A. Yes.

Q. What was their condition?

The Master: Have you set forth the condition on this schedule?

The Witness: Not at any length. No, there is no condition on that at all.

Mr. Ransom: There is a schedule of supporting detail of some hundred odd pages that was furnished to the defendants on Friday and Saturday, which they have had.

23009

Mr. O'Brien: When was it furnished to the defendants?

Mr. Ransom: I think Mr. Edgerton was there on Saturday.

Mr. O'Brien: When was it furnished to Mr. Edgerton?

Mr. Edgerton: Friday.

Mr. O'Brien: Your Honor, this refers to this extra judicial examination—

The Master: Get the answer to your question. I do not think there is the slightest effort on the part of counsel for the defendants to facilitate the trial of this case.

23010

A. The walls required some pointing, that is, the cement was slightly washed and there were one or two cracks.

Q. Will you say that that building has not settled on the north side?

(Witness refers to blueprint.)

Mr. O'Brien: I object to the witness referring to some paper in answer to my question. We do not want the maps here as witnesses, we want the man who says he has made a personal examination. If he has done this through a lot of

proxies they should be on the witness stand, and not this man who sat in the office on a chair and received these reports.

The Master: Let us find out what he says first.

A. That wall has not settled.

Q. You refreshed your memory by looking at a blueprint, did you?

A. This is a map with letters on it, which the letters on the exhibit refer to.

By the Master:

Q. Who put the letters on there?

A. I don't know. We use the letter simply as a 23012
convenience to indicate the buildings.

Q. What letter have you got in there that you refer to?

A. Engine House A, which is shown on the exhibit.

Q. How can you testify because you see the letter "A" there as to the condition of that building?

A. Just to refresh my recollection as to the condition.

Q. Did you see the building yourself?

A. Yes, sir.

Q. Did you look at the walls yourself?

A. Yes, sir.

Q. If the walls had settled you would have some- 23013
thing on there to show it?

A. No, I would not.

Q. I thought there was something on there that stated whether they had or had not?

A. Not at all.

By Mr. O'Brien:

Q. Colonel, who drew this blueprint here?

A. The original drawings were made by whoever has his name on it; I don't know.

Q. Was this done by Mr. Aldrich?

A. I don't know.

Q. Who put that letter "A" on there?

A. If you will look and see who signed the print as draftsman that will give you the information.

The Master: I don't think you should waste any time on that. The witness was simply looking at that map to identify the building.

Mr. O'Brien: These letters "A," and so on, mean certain things about the buildings.

The Master: No, they are just to identify the building.

The Witness: No, this is the insurance map of

23015 the company.

Q. It is used by the insurance companies?

The Master: They call it an insurance map. He was using that map to locate the building in his mind.

The Witness: These letters are used in the fire insurance policies to identify the buildings.

Q. How did this refresh your memory about the condition of the building?

A. The location of it.

Q. Do you recall particularly the engine house?

A. Yes.

Q. What fixes it in your memory?

23016 A. Fixes what?

Q. The engine house, and the walls of the engine house?

A. I just recalled their condition. I don't know. I went up there and spent enough time inspecting it to have it fixed in my memory, that is all.

Q. Isn't it a matter of fact that the cement was an inch—the holes between the bricks at least half an inch lacking in cement?

A. No.

Q. Isn't it a fact that the northwest corner has settled?

A. No.

Q. Isn't it a fact that there are cracks running up through the west wall of that building, the facade?

A. No, there were one or two small cracks, but not settlement cracks.

Q. Do you know whether there are any piles under that building?

A. I do not.

Q. Do you know the character of the soil on which that and the generator house are erected?

A. I assume from its location that it probably would be piled, but I don't know; I did not investigate.

Q. If it was piled, if these buildings were built upon 23018
a foundation of that kind, wouldn't it be naturally expected that in few years the buildings would settle?

A. If built on piles?

Q. Yes.

A. No, certainly not.

Q. You say that as a piece of engineering judgment, do you?

A. Yes.

Q. Did you ever build any buildings for the Consolidated Company on piles?

A. No.

Q. Do you know whether any part of 14th Street is built upon piles?

A. I have been told that it is. Very considerable 23019
part.

Q. Didn't that influence your judgment with respect to the 14th Street plant and the cost of putting the buildings in shape?

A. Putting them in shape—no, certainly not.

Q. Then you dealt purely with the present condition as seen by this superficial examination you made?

Mr. Ransom: I object to that. He has not said he made any superficial examination.

Mr. O'Brien: Well, he has been dealing with

the superficias, if you know what the Latin word means.

The Master: I will sustain the objection unless you strike out the word "superficial."

Mr. O'Brien: I do not mean that in the common street acception of the term. He walked in, and he has made his determination upon the judgment of the eye. That is what I mean.

The Master: I will sustain the objection unless you strike out the word "superficial."

Mr. O'Brien: I will strike out the word
23021 "superficial" for the time being and repeat the question.

A. Read the question, please.

(Question read by stenographer as follows: "Then you dealt purely with the present condition as seen by this examination you made?")

A. Yes, as seen and felt and heard.

The Master: Seen and felt and heard—as to buildings.

The Witness: No, sir; as to the whole, I mean.

The Master: He is talking about buildings.

The Witness: Then, seen.

Mr. O'Brien: Oh, he felt something, the magic
23022 touch.

The Master: Oh, he felt pieces of machinery to see if they were overheating.

Q. Do you know how often they repaired that engine house, or generator house, or scrubber house in the last twenty years?

A. No, but from its condition I would assume about once a year.

The Master: Suppose it never had been repaired in twenty years, and its condition was as you found it, would it cost any more or less to put it in the condition that it was in when new?

The Witness: Not if the condition was as I found it, but it is a hard thing to imagine.

Q. Would not the past history of the repairs, the extent of the repairs made upon these buildings at 99th Street, be necessary to pass a judgment as to the present cost of putting them in the condition they were in when new?

A. The history was evident on the face of the building.

Q. You did not go then into the records of the company to determine how much had been spent in repairs to buildings to find out, to help you to get up 23024
these figures?

The Master: Question not allowed, as already asked and answered.

Mr. O'Brien: Exception.

Q. Does the vibration of the machinery in the engine house have a damaging effect upon the walls?

A. No.

Q. That is your judgment as to this particular engine house?

A. As to that particular engine house, yes.

Q. How long a time did you spend in the generator house?

A. I do not know. 23025

Q. How many machines were working the day you were there?

A. I don't recall.

Q. Well, will your notes tell you that?

A. No.

Q. Will the report of Graham or Weiss or Krekel give us that information?

A. No.

Q. Did you get the records of the reports made about these machines, generating machines, to determine the figures placed on Exhibit 377?

The Master: Question not allowed. The witness has repeatedly stated that he did not.

Q. What was the condition of the generating machines when you examined them, at 99th Street?

Mr. Ransom: Page 38 of the exhibit.

A. No. 1 generator set needed some new I-beams on the covers. The I-beams were somewhat damaged.

Q. Who made that note?

A. I did.

Q. Did you make that note after inspecting this,
23027 or did Mr. Graham or some assistant give it to you?

A. I made it.

Q. What did they report about it?

A. They reported the same thing.

Q. Did they make a report to you?

A. What did you say?

Q. Did any of your men go over that besides yourself?

A. Yes.

Q. Which one?

A. I think Weiss went over this; I am not sure.

Q. Have you got his report?

A. No.

Q. Where is it?
23028

A. He hasn't any, so far as I know.

Q. Did he make a written report to you?

A. No.

Q. Are you sure of that, Colonel?

A. Yes.

Q. Did he report that to you orally?

A. Yes.

Q. Did he make other reports orally to you?

A. Yes, we had many discussions.

Q. Did he make any written report to you?

A. No.

Q. None at all?

A. No.

Q. Did he give you any written memoranda?

A. No. No. 2 generator set required certain—

The Master: You need not read that, it is all on page 38.

The Witness: It is in detail on page 114 of the other.

The Master: It is page 38 of the exhibit.

Q. What make were these machines?

A. United Gas Improvement Company of Philadelphia. 23030

Q. All of them?

A. Yes.

Q. Do you know when they were installed?

A. No.

Q. Do you adhere to the opinion still that by making repairs from time to time these machines will live on forever?

A. If the parts are replaced when they give out the life of this class of apparatus is indefinite. It may be rebuilt from time to time so that no original part would be there, and yet the machine is just as good as it was when it was put there.

Q. You mean the shell will stay forever? 23031

A. I mean that no—

Q. If you keep replenishing the insides?

Mr. Ransom: Let him finish his answer.

A. I mean no original part of the machine may be there and yet the original form and original design will be there; and yet each piece may have been replaced.

Q. And nothing of what was put there in the beginning may be there?

A. That is possible.

Q. At the time of which you speak?

A. That is possible.

Q. They are frequently sold second-hand, are they not—gas making machines?

A. Not frequently, no. I was just trying to think if I ever heard of any being sold second-hand.

Q. Do you ever read the Gas Engineering Journal?

A. Not very often.

Q. Do you read any of the gas engineering journals?

A. Not very often.

Q. You are beyond that?

23033 A. No, I am not beyond that.

The Master: The question is not allowed.

Q. Is it not a fact that they are frequently advertised, second-hand machines for gas making purposes?

A. I do not know.

Q. Does the Bartlett Hayward Company ever sell second-hand machines?

A. No.

Q. Were they repairing any of these machines while you were there?

A. I don't recollect whether they were or not.

Q. Your memory is not fresh on that?

The Master: It is not allowed.

23034 Mr. O'Brien: Exception.

Q. Did you ask Mr. DeCastro how often they had broken down?

A. No.

Q. Did you ask the acting superintendent there anything about the past history of these machines?

A. No.

Q. You were not concerned with that?

A. I knew it. The evidence was in the machine itself. You could see how it had been maintained.

Q. Well, you do not remember now how many of them were working?

A. No, I do not, but I could see the condition of the machines.

Q. Were there not three of the machines shut down at the time you were there?

A. I don't know, but I would not think so.

Q. How do you pass judgment on a machine that is not in action?

A. By examining it, by looking at it.

Q. You do not get inside the machine, do you?

A. No.

Q. You just pass your judgment on what you can see with the naked eye? 23036

A. What I can see inside and out, yes. I can look inside without getting inside.

Q. Is it not necessary to see it actually in the process of making gas to pass judgment upon its present condition?

A. On the contrary, you can tell more about a machine, about that kind of a machine, when it is not operating than about one that is operating.

Q. You can?

A. Yes.

Q. Do you need to see them both ways?

A. What did you say?

Q. Is it necessary to see them both in action and out of action to pass judgment on their present condition? 23037

A. No.

Q. Not for the purposes of your examination?

A. Not for the purpose of finding out the condition of the machine.

Q. Why did you have recourse to the monthly reports, the manufacturing reports of the 99th Street station, to formulate your judgment as to how much you ought to spend on these things to make them as good as new?

Mr. Ransom: Objected to. He did not say that he had recourse to those reports for any such purpose as that.

The Master: My recollection is that he said he saw them.

Mr. Ransom: That he looked at them; but not for any such purpose as Mr. O'Brien has intimated.

By the Master:

Q. Was it for that purpose, Colonel Miller?

A. No, sir; I was interested in the operation of the
23039 plant and in the efficiency of the plant.

Q. Didn't you ask to see the reports, to see what these machines had been doing?

A. No, sir; I had not seen the 99th Street reports specifically, but I saw the general reports indicated by the exhibits in this case, and they are all the reports I have seen. They sum up the operations of the whole company.

By Mr. O'Brien:

Q. What reports do you refer to, Colonel, that are exhibits in this case?

A. Exhibits 365 and 364.

The Master Exhibits 364 and 365 he said
23040 were the records. That is the tabulation showing the cost per thousand cubic feet and the various items of 1918.

Mr. Ransom: And the quantities.

The Witness: It shows the quantity of material that was used.

Mr. O'Brien: Have you got the original exhibits here, Judge?

Mr. Ransom: I think so (handing Mr. O'Brien papers).

Q. I call your attention to these two exhibits and ask you what particular statements indicated thereon

formed a basis or part of the basis of your opinion with regard to the 99th Street station?

A. The 99th Street station is included in the whole, and the fact that this company used 32 pounds of generator fuel in one year, or 32.83 pounds—

Q. Where is that on the exhibit? A. In one year. Let me answer. 32.83 pounds of generator fuel in one year and 33.74 pounds in another year, indicated to me that the plant was operating efficiently and was being kept up.

Q. How do you know whether that was 99th Street or 21st Street? 23042

A. That was both. That included the whole system.

The Master: Let me see those (taking Exhibits 364 and 365).

By the Master:

Q. It was less in 1918 than in 1919?

A. In 1919 they used a lot of coke, sir, and it is not quite as good a fuel as coal.

Q. These two exhibits led you to believe that the amount of fuel being used was substantially the same in the two years; is that the idea?

Mr. O'Brien: Your Honor, I am going to move to strike out that answer as not responsive. 23043

The Master: No, I will let it in as responsive.

Mr. O'Brien: I have asked him about the 99th Street station—

The Master: Wait a minute, until I ask him some questions.

Mr. O'Brien: And he has proceeded to give us—

The Master: I am asking him some questions.

23044 Alten S. Miller, Cross.

Mr. O'Brien: Will your Honor permit me to finish the sentence?

The Master: Not until I am through.

Mr. O'Brien: I must object to your Honor taking the witness in hand at this time; I want to take the witness in my own way.

The Master: I will put my questions now.

Mr. O'Brien: Exception.

Q. What I refer to, Colonel, was that on one paper it showed 32 pounds plus, and the other papers 33 pounds plus. I see by looking at these papers in 1918 it showed the 32.83 pounds, and in 1919 it showed the 33.74. My question was, did not that indicate to you that they had to use a little more fuel in 1919 than in 1918?

23045

A. A little more fuel, sir, but nearly half of it in 1919 is coke, which is not quite as efficient for generating purposes as coal.

Q. Then you reached the conclusion that about the same quantity of fuel was used substantially in each year?

A. Not exactly the same quantity, sir, because more fuel was used when the coke was used, but the coke is not as efficient a fuel.

Q. I mean it would indicate that about the same quantity as to efficiency was used?

23046

A. Yes, sir; I should say they were equally efficient.

Q. If they had used coal to the same extent as in 1918 this indicated to you that they would not have had to use any more coal than they did the year before?

A. No.

Q. And it was on these figures that you reached the conclusion that these two plants were efficiently operated and were in good condition?

A. Yes, to that extent.

Mr. O'Brien: I want to object right here to the questions your Honor is addressing to the witness. I am objecting to your Honor taking the witness in hand at a time when I am in the midst of cross-examination, and I note an exception to your Honor's silence.

Q. How could you tell that it showed that result both at 99th Street and 21st Street?

A. It shows both.

Q. How could you form any judgment on the efficiency of 99th Street from the fact that both of them together showed comparatively the same result for 23048
two years? Might it not indicate that 21st Street was in good shape and 99th Street in both years was in bad shape?

A. I have taken them together and it simply confirmed my opinion. I have not taken them alone.

By Mr. O'Brien:

Q. Then you desire to correct the statement that you made, that you used the reports, manufacturing reports, for the purpose of determining in what condition the machinery was—

A. (Interposing.) I don't think I made that statement.

Q. Well, if you made it, you want to correct it 23049
now?

The Master: I will not allow that now. The witness says he did not make such a statement.

Mr. O'Brien: I have a pretty good memory of what he said, your Honor.

The Master: Well, it is not my recollection of what he said, Mr. O'Brien.

Mr. O'Brien: I know what he said. He has mumbled off some other stuff that I want to dig out before my memory passes over it.

The Master: Next question.

Mr. O'Brien: There was one part of his statement there where he says—

Q. Mr. Miller, you made the remark that if they were properly maintained they probably would last forever. Is there any doubt in your mind, with regard to any part of the plant of the complainant company, that they have been properly maintained?

A. I have set forth my estimate of the condition in this statement.

By the Master:

Q. You are not answering the question now, Colonel Miller. You have looked at a number of plants, have you not?

23051

A. Yes, sir.

Q. A number of apparatus?

A. Yes, sir.

Q. Have you in mind any particular apparatus or any part of the plant that you think has not been properly maintained?

A. Yes.

Q. What is it?

A. The holder at 42nd Street.

By Mr. O'Brien:

Q. Only one holder at 42nd Street?

23052

A. Yes.

Q. Did you examine them all?

A. Yes.

Q. Did you see those that were not inflated work?

A. No, they were out of commission.

Q. What steps did you take to go into them to find out what their condition was?

A. I was not interested in the condition. I was notified that they were not a part of the capital of the company claimed for in this case, and therefore should not be taken into consideration.

Q. Did you see any of the plants there that were

not filled up or were partly filled—any of the holders there?

A. I just stated that of the four holders three of them I was notified were not claimed in this case; the fourth one I have estimated on replacing *in toto*.

Q. How about the holder down there in 17th Street?

A. The holder at 17th Street I was notified was not claimed in this case—those two holders were not claimed in this case, and I made no estimate of them.

Q. Coming back to the 99th Street plant, will you tell me whether or not you did take up the manufacturing reports of that station in connection with your examination of the plant? 23054

A. I did not.

Q. Will you tell me why not—why you did not go to the meat, the direct source of information as to the oil used and the fuel used, the labor and the other details of manufacturing, to find out whether that particular plant was being run efficiently?

A. Because my examination of the plant satisfied me beyond any question that it was running efficiently. After finishing the work, however, I concluded that when I came here and testified that it was running efficiently you would ask me what it was doing, and I therefore asked for the exhibits in the case showing what the plants were doing, and they were handed me for that purpose. 23055

Q. Did Judge Ransom tell you to testify as to the Exhibits 364 and 365?

A. He did not.

Q. Did he call them to your attention?

A. He did not. I asked him for the information and he did not call it to my attention. He furnished it to me at my request.

Q. Don't you know, Colonel, that those exhibits have yet to be proven?

A. I do not.

Q. And you are assuming they are correct, are you, in making your judgment?

A. I am assuming they are correct.

Q. Don't you usually go into the manufacturing book to find out your information?

A. No.

Q. Does not that tell you any useful story in connection with determining how much must be done to
23057 a plant to put it in prime condition?

Mr. Ransom: Objected to. He has not been brought here to comment on the manufacturing books.

The Master: I will allow the question.

A. No.

Q. Why?

Mr. Ransom: I object to the question as improper, because it does not appear that the witness examined the manufacturing books, he does not know what is in them.

Mr. O'Brien: Just state your objection and the Master will pass on it. You need not tell the
23058 witness what to answer, you know.

Mr. Ransom: I was saying that the question is incompetent and improper, because it does not appear that the witness has any knowledge of what is in this manufacturing book.

The Master: Objection overruled.

Mr. O'Brien: Exception.

The Witness: Read the question.

Q. I will put it in another form. Why is it not necessary for one who is passing judgment upon the present condition of the 99th Street gas works and their efficiency to consult the record, the primary rec-

ord, of the quantity of fuel used or oil used or labor used, the registered and corrected make per day, and the other conditions that are set forth in the manufacturing books.

Mr. Ransom: I object to the question on the grounds already stated, and on the further grounds that it is quite indefinite, Mr. O'Brien refers to "one" making such an examination, without any indication of the qualifications of the one who is supposed to make the examination.

The Master: Objection overruled. 23060

Mr. Ransom: Exception.

A. Because a minute examination of each portion of the plant shows its condition and shows what it will do if properly operated. Furthermore, if the holder frame should be allowed to get rusty, if bricks should be allowed to fall out of the walls, if slates should fall off the roof, the manufacturing book will not show it; the manufacturing book will not show if the buildings and holders—

The Master: We know all that, Colonel. We are talking about apparatus now.

The Witness: Well, I have answered that, sir.

The Master: Why won't the operating record help you in determining the state of efficiency of the manufacturing apparatus? 23061

The Witness: Because an examination, a minute examination of each piece of apparatus indicates this condition, and you will know, if it is in condition, at least I know if it is in condition, what it will do.

The Master: In other words, your theory of it is that if it does not produce the result you expect from a machine in that condition, that something is faulty in its operation?

The Witness: Yes.

Q. Mr. Miller, how can you tell how efficient a machine is being run if you do not know how much oil they are using to produce a given amount of gas?

A. I did not pass on the efficiency of the actual operation. I passed on the condition of the apparatus. The apparatus was in condition to operate efficiently.

Q. Well, supposing the results set forth in the manufacturing book were unusual, were abnormal wouldn't you have to go into that, the manufacturing results, in detail, to find out whether the fault was
23063 with the man making the gas or the machine that was making it, or the material that was used in making the gas?

A. Well, if they are abnormal and I had known they were abnormal, and they were indicated as being abnormal by the exhibits in the case, I might have gone into that question. But the machinery was so very clearly in such excellent condition, and the reports of the system were so good, that I did not think it was necessary to go hunting around with the limited time at my disposal to go into any questions of quality of oil or quality of fuel.

Q. You were working under pressure?

23064 A. Within limits.

Q. You did not have enough time to do your work, did you?

A. I think I did it. I thought I had plenty of time to do it. I think it is done.

Q. You think it is done?

A. I think it is done.

Q. It satisfies you?

A. Entirely satisfies me.

Q. Well, now, will you tell me how you could tell whether Berry and his other fellow gas makers there were not incompetent?

A. I was not interested as to whether they were competent or incompetent.

Q. Haven't you got to find that out?

A. No.

Q. How can you from just seeing the machine fired up determine whether or not it is in prime condition, and just as good as new?

A. I did not see any machine just fired up. I examined the machines and gave them a sufficient examination to determine what their conditions were.

Q. Then it was not necessary for you to even refer to Exhibit 364 and 365? 23066

A. No, except for the purposes of this cross-examination.

Q. That was an aftermath?

A. Yes.

Q. Did someone suggest to you about that?

A. Oh, no.

Q. I asked you if Judge Ransom did, but I did not ask you if anybody else did?

A. No, except your cross-examination in a previous case.

The Master: Did you give the same character of testimony in the other case to which you have just referred? 23067

The Witness: No.

Mr. O'Brien: No. There it was 100 per cent perfect, your Honor, immortality 100 per cent, and now there comes into it slight vestiges of the creeping man with the scythe coming on some time between now and the end of the world, he may take the plant over.

The Master: This case will be finished before he gets around.

Q. Do you know when those boilers were put in that plant up there?

The Master: Objection sustained.

Q. Do you know what kind of boilers they are, without referring to some data?

The Master: What do you mean, 99th Street plant?

The Witness: There is some B. & W. type boilers. I don't know whether all of them are there or not.

Q. They are pretty old-fashioned, aren't they?

A. The B. & W. type boilers are not old type boilers.

Q. I am talking about the plant, not B. & W.?

23069 A. The B. & W. type of boiler is the most modern type of boiler built.

Mr. O'Brien: I move to strike that out. I did not ask that. I am asking about the plant at 99th Street. The boilers are not B. & W. boilers.

The Master: Well, did the witness say they were not?

Mr. O'Brien: The witness has gone into a soliloquy here on B. & W. boilers.

The Master: What did he say were the boilers in that plant?

Mr. O'Brien: It does not appear.

23070 The Master: Well, then, stop there. I thought he said they were B. & W. boilers.

Mr. O'Brien: It does not appear what make they are.

Q. Do you remember how often they have broken down?

A. I do not know that they have ever broken down.

Q. Who showed you through this plant?

A. I went through with the superintendent, and I went through alone, and I went through with my men.

Q. Was this before Mr. DeCastro went to the hospital?

A. I went through before he went to the hospital, and I went through after he went to the hospital.

Q. Did you ask him how often they had broken down?

A. I did not ask him whether they had ever broken down.

Q. Did he tell you that they had had trouble with those boilers?

A. He did not.

Q. Were all the boilers fired up at the time you made your inspection at 99th Street? 23072

A. No.

Q. What do you need in the shape of data or facts to determine in your judgment just how much money you need to spend upon boilers such as used at 99th Street, to make them as good as new?

A. Full information as to the condition of the setting and the metal work of the boilers themselves.

Q. What is the chief cause of wear and tear and depreciating effect in boilers of that type?

A. Abuse usually, running with low water, forcing unduly.

Q. Well, the shell of a boiler will last how long, under ordinary conditions, where it is well kept up? 23073

A. I never knew of one giving out.

Q. Well, you knew of their being discarded?

A. Discarded on account of change in the art. They are increasing the pressures very much on boilers. A boiler operating here in New York recently was operating on fifteen pounds—

Q. (Interrupting.) Won't you tell the Master what you mean by "change in the art"?

The Master: The Court knows what he means by change in the art.

Q. Changes in the art frequently require changes in boilers?

A. No.

The Master: They require up to date boilers as others become obsolete or out of date, that is what you mean by change in the art.

Q. Is that right?

A. No, I said not frequently.

Q. Do you know anything about the foundations of these boilers?

A. From evidences of the conditions of the boilers, I should say they are good, that is all I know.

23075

Q. You mean you did not see any cracks?

A. No settlement in evidence, no evidence of any settlement of the boilers.

Q. Did you examine the tubes?

A. Some of them.

Q. How far did you go with your examination of the boilers themselves, that were fired up, and those that were not?

A. The boilers that were fired, I looked in the furnaces, looked over the boilers, had the doors opened, looked at the headers, went to the side doors, looked in there; those that were not fired up, the plugs were taken out and I looked into the tubes, looked through the furnaces.

23076

Q. What was the condition of the doors of the boilers?

A. The doors were very good.

Q. They were not warped or bulged?

A. Not appreciably.

Q. Do you want to refer to something now, to refresh your memory?

A. I want to see what this states as the condition of the boilers.

Q. Can't you tell us that without referring to the tabulation gotten up by your men?

A. I am not referring to any tabulation gotten up by my men at any time.

Q. Is your memory a little bit weak?

A. My memory is not sufficiently strong to remember every piece of apparatus in all these buildings.

Q. You testified in the Kings County case you could not trust your memory, didn't you?

A. No, I did not, except in that way. I testified in this case that I cannot trust my memory to remember every piece of apparatus covered in every part 23078
of a big system. To that extent I cannot trust it. Under ordinary conditions I can trust it very satisfactorily.

Q. Not even back a month, you would not trust your memory as to the boiler house in 99th Street?

A. Not to remember every detail covered in all of those plants, no.

Q. What would you do to find out whether they had competent men running the boilers at 99th Street?

A. Look at the condition of the boilers. Nothing is damaged quicker than boilers by incompetent operation. 23079

Q. Do you know anything about the employees there?

A. Only insofar as the evidence of their efficiency is reflected in the condition of the plant and apparatus.

Q. How long did you watch these men work around the boilers?

A. I don't know.

Q. What kind of fuel were they using when you were there?

A. I don't recollect.

Q. Wouldn't that be important in passing judgment upon them?

A. No.

Q. What do you mean when you say "in the condition in which it was when new"?

A. Just exactly what that says, in every respect as good as new, and in the condition it was when new.

Q. Did you ever see this type of boiler when they were new?

A. Yes, sir, a great many of them.

23081 Q. Did you ever install for the complainant company a boiler? If so, where?

A. I installed some of these boilers at 99th Street.

Q. Why did you say you didn't know when they were put in?

A. I don't know when all of them were put in. Some of them were put in by me, two of them, if I recall correctly.

Q. Why did you evade a clear statement on that when I asked you on that subject?

A. I didn't evade it.

Q. Does that mean that you are giving us only just literally what you are asked?

23082 A. No, I tried to give you more several times but you tried to stop me.

Q. Which ones did you put in?

A. I don't remember.

Q. What were the types?

A. B. & W. type, as I previously testified.

Q. What year did you put them in?

A. About 1901 or 1902.

Q. Who did the brick work?

A. I don't recollect.

Q. Were they employees of the company, or did Richard Deeves do it?

A. I don't recollect who did it.

Q. You don't recollect whether it was let out under contract or done by employees of the company?

A. That was my testimony.

Q. Is it your view that if you spent the amount of money set forth on Exhibit 377, page 38, on No. 8 boiler, $189, that that boiler will be just as good a boiler, and last just as long as a boiler purchased new from the Babcock & Wilcox Company today?

A. I do not recollect whether that is a Babcock & Wilcox boiler, but the amount of money that is set forth on this exhibit will put that boiler in the condition in which it was when new, and it will last just 23084
as long as that same boiler would last if it had been purchased and set new today.

Q. How long would that be?

A. I don't know, it will last indefinitely.

Q. Twenty-five years?

A. I don't know how long it will last.

Q. Ten years?

A. I know no reason to limit its life.

Q. Do you say it is limitless?

A. So far as I know—

Q. Or do you simply say you don't know?

A. As far as I know it is limitless. I have never seen a properly maintained boiler discarded for any 23085
other reason except questions of capacity or change in the art.

Q. Well, if your judgment is correct on that, Colonel, why is it that a second-hand boiler would not bring just as much as a new one?

A. Because that is a matter of barter and trade. Anything second-hand brings a less price. I would say, however, that within the last two years I have paid double the price for second-hand boilers that I paid a few years ago for new boilers.

Q. You are talking about war conditions now?

A. All conditions now are war time conditions, and they are not going to change.

Q. Yes, when scrap iron was of great value?

A. Scrap iron was of great value, and is of great value.

Q. When you say that, you refer to that kind of condition?

A. I am referring to present conditions.

Q. Present conditions you consider war time conditions, do you?

A. I consider present conditions normal conditions.

23087 Mr. O'Brien: I move to strike that out.

The Master: It is an answer to your question.

Mr. O'Brien: I beg to differ with your Honor. It is not responsive. I asked him a direct question, whether he considered the present conditions war time conditions.

The Master: I will allow the answer to stand, which is in substance, "No, I consider them normal conditions."

Mr. O'Brien: I take an exception to your Honor's ruling.

Q. What do you mean by normal?

23088 A. I mean that I think there is every reason to believe that present conditions will not change inside of the next five or ten years, that prices are where they are going to stay, that is, for labor and materials.

Q. Well, considered with respect to the last three decades, you would not call them normal, would you?

A. There is an entire change in the last three decades. This has no relation to the previous decades.

Q. Wouldn't you consider it abnormal with respect to the last three decades and the conditions thereof?

A. They are not comparable in any way; I would not compare them with the last three decades.

Q. They could not be compared with the normal conditions of the last three decades could they?

A. No, except by saying that all prices are about double what they were. That is about the only method of comparison that I might make.

Q. Double what they were for three decades?

A. Approximately so. In some cases—

Q. Four decades?

A. I don't remember very clearly back four decades. I went in the business about three decades ago.

Q. Is not the age of the boilers indicated by the diminished pressure that they allow from year to year? 23090

A. I do not think there is any diminished pressure on any of these boilers.

Q. Do you know whether it has been diminished in anyway?

A. I asked whether it had and was told it had not.

Q. Do you know just which ones the superintendent has directed the engineers to run on from time to time, and which he has directed them to use only when they have to use them?

A. No, I do not know that there are any such, and do not think that there are any such.

Q. Did you make any inquiry to find that out?

A. I did not. The boilers were in good condition, 23091 and except for efficiency, and except for reasons of his own in the plant, there is no reason why any boiler should not be used at any time they want to use it.

Q. You are talking about boiler generators when you make that statement?

A. At the 99th Street plant.

Q. Did you ask Mr. DeCastro what directions he had given to the engineers as to the boilers that were to be used and which were not to be used except when necessary?

A. No, I am not interested in what boilers Mr. DeCastro wants to use.

Q. Can you say what type of boiler No. 9 is?

A. I cannot.

Q. Can you say what type of boiler No. 10 is? Both of them shown on page 38 of this exhibit.

A. I cannot say the type of any boiler in the plant by the number.

Q. Didn't you expect to be asked what the types were?

A. I expected to be asked a lot of unnecessary questions, but I could not learn them all on that account. I have done the best I could.

23093 Mr. O'Brien: Your Honor, I think the witness might be admonished to get away from that kind of stuff. I am going to ask your Honor to give him some directions in regard to it. I do not want to interpolate in this record a lot of protests, but I do not let witnesses get fresh with me as a rule.

The Master: Well, I don't think that is too fresh. I think it is a fair assumption for an expert. He always thinks questions are unnecessary. If I thought they were I would have stopped you.

Q. Where did you get these numbers?

A. From the boilers themselves. The license for
23094 each boiler carries with it the number of the boiler in each station, that is, the city license.

Q. Do you know what the reports were last year of the Boiler Inspection Department of the city as to any of these boilers?

A. They issued licenses on them—

Q. I asked you a question, answer me yes or no.

A. So far as I know there is no other report issued except the inspection certificate.

Q. Do you know whether the company has insurance with a boiler insuring company?

A. I do not know positively. I know it has had on some of the boilers.

Q. Did you ask for the reports made of the last inspections, 1918 and 1919?

A. No.

Q. By these companies of these boilers?

A. No.

Q. What was there in connection with the boiler breeching and stack that you considered would cost $8.62 to make the breeching and stack as good as new?

A. A piece of plate iron had warped there and I figured on renewing it.

Q. Do you know how high that stack runs?

A. No, I do not. 23096

Q. Would you approximate its height?

A. No.

Q. Does it make any difference in your judgment as to how long that stack will stand, how high it is?

A. No.

Q. Do the elements have anything to do with the future condition of a stack and the length of life it would have?

A. Not if it is properly maintained.

Q. By "properly maintained" you mean just painted now and then?

A. If it is an iron stack paint it; if it is a brick stack, point it. 23097

Q. Wind pressures and rain storms would make no difference with its life?

A. No.

Q. If it is pointed from time to time if brick?

A. No.

Q. And painted if steel?

A. No, not if it is properly designed.

Q. Do you know of any stack that has stood for 50 years?

A. Oh, I see lots of old stacks around that I presume have stood much longer than that.

Q. Where do you see them outside of Baltimore?

A. I didn't live fifty years ago, so I cannot personally identify them, but I am sure a good many of them are older than that.

Q. Where have you seen such?

A. On some of these old buildings around here.

Q. Look out of the window and see?

A. The old Astor House over there has chimneys over fifty years old. I suppose this building must be over fifty years old, but I don't know.

Q. You don't know anything about the chimneys on
23099 this building?

A. No, I don't know much about it.

Q. There isn't a stack on this building, is there?

A. Every chimney is a stack.

Q. Does not the height to which a stack runs play any part in your judgment?

A. Not if it is properly designed, no. If it is properly designed it doesn't make any difference.

Q. You mean designed by the Bartlett-Hayward Company?

A. Well, their designs are proper; all their designs are proper.

Q. Did anybody connected with your investigating
23100 staff measure that stack to know what its height was?

A. No.

Q. Did they determine its other dimensions?

A. No.

Q. Did they determine when it was put up?

A. No.

Q. Do you know—

A. No.

Q. Where did you conclude that I-beams should be furnished in the No. 1 generator set?

A. It is the bar or support for holding the grate bars in the generator.

Q. Did your men go inside the generator set No. 1?

A. No.

Q. Do you know whether that was being used or was fired up?

A. I do not recollect.

Q. At the time it was inspected?

A. I do not recollect.

Q. Did you or any of your men ask the men who were operating these machines for a number of years as to how they acted?

A. No. 23102

Q. Did you consult their reports at any time while you were there on inspection?

A. No.

Q. To determine just whether these men were able to handle the machines well or not, and were getting the best results?

A. No written reports, no.

Q. Any oral reports from these men?

A. No, we just examined the machines. They are the best possible reports.

Q. Will you sum up briefly just what you did in the generator house; how long you spent there?

A. I cannot tell you how long I spent there. I went 23103
into the house. I briefly stated a while ago my first preliminary inspection. At a later date, and on several occasions I went in with my staff, looked over each machine outside, looked into the door, top and bottom, looked into the cocks, looked at every piece connected with the machines, the valves and parts, and watched those operate that were operating; those that were not operating we of course did not watch operating; felt the machine to see whether the linings were of full thickness, if they were operating. That about covers it, I think.

Q. Why did you suggest more work on the No. 3 generator set? Is that an older machine?

A. No. I do not imagine so. There is no indication that it was older. The indication is that more work was needed, that was all. These machines are regularly repaired and it had been longer since that one was repaired than the others. All the work I have done here was done in regular routine.

Q. Where did you find that out, that they were regularly repaired?

A. Because I know it is—

23105 Q. You just assumed that, didn't you?

A. Wait until I finish the answer.

Mr. Ransom: Let the witness finish.

Mr. O'Brien: I do not want a speech, your Honor. I must clip him somewhere.

The Master: If you ask a question that calls for a speech you are going to get it.

Mr. O'Brien: But I must have some way of shutting him off. There must be some sort of safety valve here.

The Master: What was the question?

Q. Where did you find that out, that they were regularly repaired?

23106 A. In order to make gas in a machine of this kind it is necessary to regularly repair it.

The Master: That is how you know it is regularly repaired, because you think it is necessary to regularly repair it?

The Witness: I know it is necessary to have it regularly repaired.

The Master: Next question.

Q. Do you mean by that, Colonel Miller, that you did not go into the history of the particular machine to find out how often it had been repaired?

A. I do mean that, yes.

Q. Will you say now how long you did spend in this generator house at 99th Street?

A. I think I have testified several times I could not tell you.

Q. Would you say four hours or two hours?

The Master: The question is not allowed.

Mr. O'Brien: Exception.

Q. Would you recommend the use of a salt water condenser?

A. I certainly do. I have built them and recommended them. I designed one of the first ones around 23108
this section.

Q. Oh, you sell them?

A. And I sell them. I bought them also before I sold them.

Q. And you sell as many of that kind as the fresh water condensers?

A. I do not sell as many as I would like; I would like to sell more.

Q. Well, you sell everything that the Bartlett-Hayward Company makes?

A. Bartlett & Hayward would sell salt water condensers and would make just as much money out of them as out of fresh water condensers. 23109

Q. You sell both?

A. We sell both.

Q. You sell all of the things you produce?

A. We recommend them for the best thing they are adapted to. We are engineers as well as contractors.

Q. Colonel Miller, you had something to do with the toluol plants of the complaint company, did you not?

A. We built some of the plants, yes.

Q. Did you do that work extensively for the government?

The Master: I will not allow the inquiry.

Mr. O'Brien: Your Honor, I have only a few questions I want on that.

The Master: What is the purpose?

Mr. O'Brien: The purpose is to show the connection between the witness and the Consolidated Gas Company.

The Master: And what?

Mr. O'Brien: I want to ask the witness whether he was not recommended by the Consolidated Gas Company to the War Department in connection with this work.

23111 The Master: I will not take that.

Mr. O'Brien: I will put the question and your Honor can rule on it.

The Master: You did put the question and I will not allow it.

Mr. O'Brien: Your Honor, on this matter I think it is of first importance to have shown on the record of this case.

The Master: That the Consolidated Gas Company is a friend of his?

Mr. O'Brien: The Consolidated Gas Company, yes; and he is a friend of the Consolidated Gas Company.

23112 The Master: He admits that.

Mr. O'Brien: And he was recommended to do some work for the government.

The Master: Why, he admits all that. He admits that anything he can do to help the gas company win this case he is here to do it.

Q. Do you admit that, Colonel?

A. Surely.

Q. What year were you in the War Department?

The Master: I will not allow that.

Mr. O'Brien: Does your Honor hold that that is immaterial, too?

The Master: Yes.

Mr. O'Brien: I call to your Honor's attention the charges made by this company to the government are in this case.

The Master: What do I care?

Mr. O'Brien: I think we ought to have the whole story.

The Master: This witness is called to testify to what he says is the cost of putting the plant into the condition that will be as good as new, and I am giving you the widest latitude to show that he does not know what he is talking about. 23114

Mr. O'Brien: I would just like to have this made clear and I will pass on. I note an exception to your Honor's ruling. I think it is important to have those things brought out.

The Master: I disagree with you.

Mr. O'Brien: Exception.

Q. What is the type of the No. 3 blowing engine and blower? Can you not tell us that without referring to some data that you have with you?

A. I have already testified that I cannot remember the details of all of these plants.

Q. But you were with this company for a number of years? 23115

A. I was with the Consolidated Gas Company two years, in the Construction Department.

Q. Only in the construction?

A. Only in the construction department of the Consolidated Gas Company.

Q. You had nothing to do with the manufacturing, then?

A. No.

Q. Was it the construction work solely that you were on for the East River Gas Company?

A. It was not. I was the engineer of the East River

Gas Company and had entire charge of all the engineering operations of the company. It is a Sturtevant blower, and I think a Sturtevant engine.

Q. Do not the types of these engines change from time to time?

A. Yes.

Q. They are being improved from year to year?

A. Not always, no. Sometimes they get worse.

Q. Do Sturtevant engines get worse?

A. I do not know that Sturtevant engines do. If you are confining it to Sturtevant engines, I would say
23117 no, they do not improve from year to year, and as far as I know they have not made any material changes in them for a great many years.

Q. You consider that there is no wear and tear in a Sturtevant engine that means that ultimately it will be discarded, even though painted and oiled, with parts supplied from time to time?

A. There is a great deal of wear and tear in all engines, but the wearing parts can be replaced and are replaced from time to time, and they are kept good.

Q. And the life is not changed?

A. The life is indefinite. I do not know of any limit to the life of a properly maintained engine.

23118 Q. You mean it will last for fifty years or a hundred years?

A. Yes.

Q. Or two hundred years?

A. Yes.

Q. If they want to keep using it?

A. Yes.

Q. Provided they repair a part from time to time?

A. If they properly maintain it.

Q. That is what you mean by maintaining it?

A. Yes, repairing the parts.

Q. And taking out a part that is worn and putting in a part that is not?

A. Yes.

Q. Irrespective of the number of parts that are taken out and the number of parts that are put in?

A. Irrespective of those. In time it may not be any part of the original engine, but the engine will be there in the original form.

Q. In the original place?

A. In the original place and in the original form.

Q. It will be the same shape?

A. The same shape. 23120

Q. You are replacing parts of engines from time to time, are you?

A. That is not the business of the Bartlett-Hayward Company.

Q. Do you make any business of repairing engines?

A. No, we do not make it a business, except as to gas engines. We make a gas engine and we replace parts of that, yes. We do not make any steam engines and do not make a business of repairing steam engines.

Q. Why do you call the gas machine or engine the same machine if it has gone through all these constant changes of various parts, so that no part in the present is there of the engine that was put in originally? 23121

A. The same reason that I call myself the same person, although every part in me changes about every seven or eight years All the matter in my body evaporates every seven or eight years, and it is entirely replaced by new material, but I am the same person.

Q. Do you think if you get a little new skin now and then that you will go forever?

A. No, I will not go forever. Unfortunately, I cannot replace any of the major parts in myself.

Q. You mean the old heart in your body is going on for years and years, *ad eternum*, do you?

The Master: You are getting too far afield now.

Mr. O'Brien: But he has drawn this comparison himself. He has set up the simile.

The Master: But you do not have to waste a couple of hours with it?

Q. You mean with Dr. Munyon and Lydia Pinkham and a few other experts a man can go on for many more years than he could without them?

23123 The Master: The question is not allowed. I will take Mr. Miller's testimony about engines, structures and apparatus, but not about the human body.

Q. It may be graphic. You own a machine, don't you; you own an automobile?

A. Yes.

Q. You own several of them?

A. That is your testimony that I have.

Q. Is it a fact?

A. No, it is not a fact.

Q. How many do you own?

A. Two.

23124 Q. They are not the ones you had two years ago, are they?

A. Yes.

Q. How often have you changed them?

A. I have not changed them inside of two years.

Q. How often have you changed your machines?

A. I have not changed those two at all.

Q. Automobiles wear out, don't they?

The Master: I won't allow it.

Q. You have discarded some automobiles in your time, haven't you?

Mr. Ransom: Objected to as immaterial.

The Master: I won't allow it.

Mr. O'Brien: Exception.

Q. Why have you discarded them?

Mr. Ransom: Objected to as immaterial.

The Master: I won't allow it.

Q. Did they stop that engine running to make an inspection of it?

A. No.

Q. Why wasn't it necessary?

A. Because I could make a better inspection when it was running, I could tell better about its condition when running than when it was still. 23126

Q. What was there about it that impressed itself on your mind so that you are able to say that all it needed was a "repairing governor"?

A. The fact that that was all that was wrong with the engine.

Q. Colonel, why don't you come right out and be frank and tell us what you mean?

A. I answer your questions the best I can. I admit I cannot always follow your line of thought, but I am doing my best.

Q. You come in here—what is that engine worth? Now, what was there that led you to say that all that needed was to repair the governor and it is just as good as new? 23127

A. The fact that that engine was functioning just as good as new, and every appearance and every part was just as good as new except the governor, and that apparently was not as good as new.

Q. How did you determine that that was not as good as new?

A. Why, by lost motion in its functioning, you could see the lost motion in the governor piece.

Q. How did you determine that otherwise the engine was functioning the same as new?

A. By inspection of the engine as it operated and of the parts as it operated.

Q. You didn't know anything about the engineer or his assistant?

A. From the appearance of the engine, I should say he was a very good man.

Q. It was shiny?

A. It was shiny and operating quietly and smoothly.

Q. Where do you go to find out whether or not an engine is functioning? Can you tell it from just looking at it work?

231.29 A. Yes.

Q. You would say that, would you?

A. I certainly would.

Q. And then—

The Master: Do you say anything to the contrary?

Mr. O'Brien: Do I say? Your Honor, I am not on the witness stand. I am trying to find out what this witness has back of this statement.

The Master: I know, but you are asking now useless question.

Mr. O'Brien: I am not asking useless questions. That is a question that any sensible layman

231.30 could ask.

Q. How are engines of that type usually tested?

The Master: What engines are you talking about?

Mr. O'Brien: I am talking about this Sturtevant engine here.

The Master: Engine and blower No. 3?

Mr. O'Brien: Yes.

The Witness: Engines of that type are not usually tested at all. That is a very small engine. You set the valves and start it going, that is all, it is very seldom an engine of that type is ever inspected.

Q. What gives way when it collapses?

A. Usually a bearing, brass or bearing.

Q. What else?

A. That is what usually gives away. Sometimes a piston ring will break; sometimes a piston rod will break. But those are unusual. Usually the breaking of the piston rod follows the failure of the bearing, and when the piston rod breaks sometimes the whole piston goes out of the back end.

Q. Do you know what type this exhaust engine is?

A. Which engine is that, No. 8?

The Master: I suppose that is the one Mr O'Brien means. There is an exhauster engine following the last item, No. 8. 23132

The Witness: I do not recollect what that is.

Q. Well, can you recollect what you mean by "overhauling"?

A. Yes; that means going over it and tightening up the brasses and bearings, that is all, the packing.

Q. And that is all that is necessary to impart immortality, to that engine?

A. No, I did not so testify.

Q. Well, do you mean that by overhauling it and the tightening up of the screws, as you have described it, that you have got an engine that is just as good as any engine that was ever made of that type? 23133

A. I did not compare it with any other engine of that type. That engine would be just as good as it was when new if overhauled in accordance with this expenditure.

Q. And if that is done today, if this $19.54 is expended on that, you get an entirely new engine? That is your judgment?

A. An engine just as good as that engine was when it was new.

Q. Well, by that you mean, that its life beginning today will be just as long as its life was when put in there? Its prospective life when put in there anew?

A. Yes.

Q. You never discarded any exhauster engines in your time in connection with any of the companies you have been connected with?

A. Oh, yes.

Q. Why?

A. Certain ones are discarded because they are fundamentally weak, would not do the work for which
23135 they were designed, and later I discarded the engines and exhausters because they were not big enough and I had to put new ones in the same place where the old ones were, so I put in larger engines in the same place. I have never discarded them for any other reason.

Q. When you were running the Omaha plant, did you have periodic inspection of your engines?

A. No. The man in charge of the engine was always inspecting it, that is he was listening for knocks and looking for leaks, but there was no formal inspection except by watching it operate and noticing whether it operated smoothly or not.

Q. Well, didn't they have periodic testing of it
23136 that took considerable time?

A. The engines—exhauster engines in Omaha were never tested when I was there.

Q. How about Hyattsville, didn't they take them apart there from time to time and go into a detailed testing of them?

A. Never take them apart except when there is an indication from knocking, or the exterior sign that it needs repair.

Q. Well, how often does that knock come?

A. It depends a good deal on how careful the engineer has been in oiling it. If he is careless it comes

quickly; if he is careful it lasts a long time before they come.

Q. So some of those things do depend upon the efficiency of the man that is running them? A. So far as I know, everything in the operation of a gas plant depends upon the efficiency of the man operating it.

The Master: That is so of all machinery?

The Witness: That is true, yes, sir.

Q. Did you ever do any work for the Edison Company?

A. The New York Edison Company?

Q. Yes? 23138

A. No.

Q. Do you know anything about their routine?

A. No, I do not. Their conditions are very different from a gas plant.

Q. Well, an engine is an engine anywhere, whether it is in the Municipal Building or in the office building up at Irving Place and 15th Street, isn't it?

A. That question answers itself, yes. An engine is an engine.

Q. Do you know anything about the practice in connection with the engines in the various buildings of New York as to taking them apart and testing them periodically to find out how far they have run down? 23139

A. Never known of an engine being taken apart in any of the buildings I have known.

Q. Do you know whether that practice obtains in New York City, in that regard?

A. I say I never knew of their taking one apart.

The Master: Just for the sake of looking at it.

The Witness: Yes.

Mr. O'Brien: I did not adopt your Honor's question.

The Master: I did not ask you to.

Mr. O'Brien: I don't know whether your Honor meant to criticize my form of question in making that.

The Master: No. If I have any criticism to make, I make it. If I think your questions are not useful, I tell you so. I simply said what I did because the substance of the witness's testimony is that unless there is a knock or some evidence of trouble, the taking down of the machine would simply be a matter of useless work to see what it looked like, and that is not done.

23141 Q. Would you say about the same thing in regard to pumps, make the same comments that you have with regard to engines?

A. Yes, with this exception, that the pump might leak through its piston packing, so that while it is apparently operating it is not doing any pumping. That would be very apparent when it is found that the pump is not doing its work, and in that case you would have to open it up and pack the piston. Otherwise I would make the same statements.

Q. Well, you know there is a question running through my mind, I might as well blurt it out here. It might seem by some of the questions asked, and the 23142 question is, how does Bartlett-Hayward keep in business if what you say is true about all of these things that go into gas plants? Maybe the war saved you?

A. The Bartlett-Hayward Company does very little repair work.

Q. Well, you give new parts, don't you?

A. Very little.

Q. You put up holders?

A. Oh, yes.

Q. You supply all these things that are in this schedule?

A. Very little repair work.

Q. Perhaps you don't get my question. You are one of the principal firms in the country dealing with the equipment of gas companies?

A. Yes.

Q. You do not depend upon new companies for all of your business?

A. No, but we depend on increase in business. Almost all of our work is done in supplying machinery to take care of the increasing business.

Q. Well, now, when you were with the company in the construction department, did you ever have occasion at any time to go over the books relating to 23144
manufacturing and the repairs that were necessary in their plants?

A. No.

Q. Do you know the types of pumps No. 13 and 18, what they were, whether they were standard make?

A. No, I do not know what make those pumps were. I haven't a note of it.

Q. You haven't any note of it?

A. I haven't any note, and do not recollect.

Q. Do you know when those pumps were bought?

A. No.

Q. You made no attempt to find out when they were made? 23145

A. No.

Q. Did not care?

A. No.

Q. It would not affect your judgment if they were made 25 or 30 years ago?

A. No.

Q. You would consider them just the same as if they were made five years ago?

A. Yes.

Q. Do you know whether they are old fashioned pumps, or modern pumps?

23146 Alten S. Miller, Cross.

A. I don't know just what an old fashioned pump is in the shape of a steam pump.

Q. Do you mean by that, the old are just as good as those latterly built?

A. Many of them better.

Q. What type, for instance?

A. The old Guild and Garrison pump; better in many ways than modern pumps—some of the modern pumps of other makes.

Q. Haven't they perfected them from year to year?

23147 A. No.

Q. Just the same now as it was then?

A. Practically.

Q. What data did you look at to determine the efficiency of those pumps?

A. I looked over the pumps and saw them operating.

Q. Was it just a visual inspection you made?

A. And saw them operating, discussed with the superintendent as to whether the piston—the valves were leaking, and he told me the valves were leaking on this No. 13 pump, and he had ordered new valve seats to replace them, and the new valve seats were in stock, and $32.40 is the estimated cost of putting them

23148 in place.

Q. Then you did depend, in this instance, upon oral information given you by the superintendent?

A. In this case I discussed with him the efficiency of this pump and of these pumps, because without actually taking the pump apart, for instance, you could not tell whether the piston or the valves were leaking.

Q. Did you take his judgment on that?

A. I took his judgment on that, and his valve seats.

Q. Do you know the type of the hoisting crane out there?

A. No, I do not recollect; I do not recollect what the make was.

Q. It was made in Ohio, wasn't it?

A. I don't recollect.

Q. Did you see it working?

A. Yes.

Q. What was it taking in at the time you were there?

A. It was taking in some coke, I think; I am not sure.

Q. How long did you watch it work?

A. Oh, twenty minutes or half an hour, something like that. 23150

Q. Did you ask the superintendent whether it broke down at all?

A. No.

Q. Did you ask him how much coal they removed out of barges per day?

A. No.

Q. Did you get from him the capacity of this machine and of the man working it?

A. No.

Q. Then your judgment as to the present condition of that piece of equipment was based solely upon what you saw while it worked for twenty minutes? 23151

A. Oh, twenty minutes or so, yes.

Q. The steam lines were they given any further inspection than a visual inspection?

A. No.

Q. If you were buying a plant what would you do as to steam lines?

A. I should look over them the same way I looked over them in this case.

Q. You would buy them on a judgment based on just that visual inspection, would you?

A. Yes, I don't know of any other way you can inspect a steam line.

Q. All I want is the truth, you won't shock me with the truth Colonel, so smile on. What I want is the truth.

A. That is what I am trying to give you as fully as I can throughout all this testimony.

Q. Have you got a list there of the pieces of equipment at the 99th Street station that, considered as they stand today, are as good as new.

A. No.

23153 Q. There are a number of pieces of such equipment, are there?

A. I take it that there are, yes.

Q. Didn't you make them up into a list?

A. No.

Q. Everything that is not mentioned here we are to assume that you considered that, without even spending a dollar, it will go on for all time indefinitely, is that right?

A. I have not so testified about anything.

Q. Is that what your testimony is?

A. That is not my testimony.

Q. What then is your testimony as to the pieces of

23154 equipment that are not included in this Exhibit No. 377?

A. That they are as good as new, and if properly maintained will go on indefinitely.

Q. As of October, 1919?

A. They will go on indefinitely as of any date if properly maintained.

Q. You mean as of the date you saw them?

A. I mean for all time.

Q. Did your men make a report to you on those that are not set forth on this exhibit?

A. They did not.

Q. Did you yourself make any notes of them?

A. I did not.

Q. Would you state as to the different pieces of equipment the reason why you hold that their present condition is just as good as new?

A. Yes, because they are as good as new. They are in a condition substantially that they were in when new.

Q. The drum meters, are they in as good condition as when they were installed?

A. If there are no repairs here indicated.

Q. Don't you remember them without referring to 23156
your books?

A. I don't remember the condition of any piece of apparatus in any of the plants, but if there is no work specified on the drum meters they are in the condition that they were in when new.

Q. What about the proportional meters—would you buy a proportional meter such as they have in the 99th Street plant to put in a plant that you were erecting, and with which you wanted to make money?

Mr. Ransom: I object to the question.

Mr. Ransom: Objection sustained.

Q. Did you examine the drum meters and the proportional meter at 99th Street? 23157

A. Yes.

Q. What did you do to find out whether it was functioning correctly or not?

A. I listened to the operation of the meter and watched the operation of the hands on the meter.

Q. Where did you listen?

A. I listened with my ear against the drum.

Q. And you watched the hands go around?

A. I watched the hands go around.

Q. And you drew the conclusion that these drum meters would go on forever?

23158 Alten S. Miller, Cross.

A. I drew the conclusion that they would go on forever if properly maintained.

Q. What did you do about the proportional meter?

The Master: What is there in a drum meter that makes the hands go around?

A. There is a big piece—a big drum as it is called, just a cylinder about 18 or 20, iron with a very heavy coat of tin on it, and that is riveted to a heavy steel frame. The diaphragms run through it diagonally, so that the gas goes into the drum in the back, and as it goes into the drum it gradually raises the roof, so
23159 to speak, that is, the diaphragm, and when it raises to a certain point it opens another one of these openings, which keeps it going, and it seals the original. When the original one seals the outlet at the front end of the meter opens, and this continued rotation pushes the gas out by this diagonal sheet of metal in the drum, of which there are four, by the action of the gas on that diagonal sheet of metal.

The Master: Don't they get out of order?

The Witness: They will get out of order if they are not truly built. Sometimes they are built with a little kink in them.

The Master: Suppose they are properly built?

23160 The Witness: If they are truly built they will last practically indefinitely. The gas is a preserving atmosphere, and they will last almost indefinitely. Sometimes the gearing will wear slightly, but if you get them truly built and keep them closed up so that no air gets in, they will last indefinitely. It is a very heavy coat of tin, and the gas is a preserving atmosphere. The drum itself is of cast-iron.

Q. How about the proportional meter—are they not being discarded generally by gas companies?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Did you examine this proportional meter?

A. I watched it operate. It is a very simple piece of apparatus.

Q. I know, but did you test it?

A. I did not test it.

Q. What do you know about the accuracy of any of these meters, what did you do to test them?

A. I did not test the accuracy of any of them.

Q. You don't mean to say that by looking at drum meters and proportional meters that you could tell by the way the hands go round, and by putting your ear against them, that it is in a condition where it is going to live forever, do you? 23162

A. I can say that it is in A1 condition, and I can say if properly maintained it will last forever.

The Master: Can you say that it is registering accurately?

The Witness: No, I could not.

The Master: Isn't it a defective meter requiring repair if it is not registering accurately?

The Witness: The adjustment of the drum meter is simply by raising or lowering the water level. The adjustment of a proportional meter is by changing a screw on a small leader, so they can be adjusted if they are not registering accurately by the simplest kind of adjustment. 23163

Q. Colonel Miller, have you found out by any reliable information how often any of these meters have gotten out of order since they were installed?

A. No.

Q. Did you make it a point to ask them?

A. No.

Q. Did you look at the manufacturing book to see whether they had been required to adjust the figures, or whether the book bore any evidences of any discrepancies from time to time with regard to it?

A. I did not look at the manufacturing book.

23164 Alten S. Miller, Cross.

Q. Did you examine the proportional meter, the records that were shown by it?

A. No.

Q. Did you make any inquiry as to whether they had gotten out of order?

A. I did not, I assumed that it did get out of order from time to time, in view of my experience with them.

Q. It is a faulty type, isn't it?

A. I don't think so.

Q. They are being discarded generally, are they not?

23165

Mr. Ransom: I object to that.

The Master: Objection sustained. He is here to testify as to what it would cost to put the apparatus in the condition that it was in when new. It may well be that this proportional meter new was not worth ten cents. He is not testifying to that.

Q. What are these diaphragms made of in the drum meters?

A. They are made of iron with a heavy coating of tin on them.

Q. Don't they have to be replaced from time to time?

23166

A. No, not if properly made, they will last indefinitely.

Q. Now, won't you say what you mean by "indefinitely"?

A. I mean I don't know how long they will last; I have never seen—

The Master: I think you have covered that.

Mr. O'Brien: If he means to say to your Honor that this thing made of tin and cast-iron, and with brass wheels, and so on, is going to go on forever, let us have it on the record, and let him stand for it.

The Master: We have had enough of it. Let me ask you, outside of this line of inquiry that you had as indicating the basis of Colonel Miller's judgment, and which I think sufficiently presents to me the difficulty of accepting his testimony as given in the light of other testimony that might be given, is there any other line that you had in mind that you want to ask him about?

Mr. O'Brien: Your Honor, I want to say to you frankly that I have not before me a list of the pieces of equipment and buildings and other properties that are not covered by the exhibit. 13268
Those, of course, we direct our attention to particularly because as to them we assume now, from what the witness says, that he holds they are 100 per cent perfect. It would take some time to get up that list, and I ought to have it before I finish my cross-examination. As a matter of fact the testimony of the witness has taken us by surprise. There is no way in which we could have foretold or guessed that a witness would be brought forward to give this kind of testimony. I was impelled at the beginning of court this afternoon to ask your Honor for at least a week in order to go over this, with a view of curtailing 23169
the examination and making it helpful to all concerned.

The Master: No, I think your examination as far as it has gone has been helpful.

Mr. O'Brien: Of course there are a lot of errors in the figures that show sloppy work, but, of course, they do not lead to a tangible result, and I am not going to take up your time with that, except that they do indicate that lack of thoroughness that engineers ought to have. Some of the extensions are not carried out correctly.

It is a rush job, and it has been slammed through, and the Court's time and attention should not be taken up with this kind of thing.

The Master: Here is the situation as I see it. Colonel Miller has testified that in his judgment with the expenditure of the money set forth on Exhibit *377* this whole plant would be as good as new. He says that where there is no reference on Exhibit *377* to a piece of machinery or building that it is as good as new, and requires no expenditure at all. Now, you have by a general line of questions, brought out the method
23171 pursued by this witness in arriving at his conclusions. I do not see how you can do any more if you were to ask a thousand questions, if you were to take each item and ask him to tell you just how he figured it. The big point about it is that you have on the record now sufficient on which to base an argument that this kind of testimony ought not to be accepted, that it is not within reason, that a thing would be as good as new if it is old, even if it has been repaired to the point where its efficiency, for the time being, may be as good as a new machine. Now, I do
23172 not think there is any usefulness in extending this cross-examination.

Mr. O'Brien: I will tell you, your Honor, here is the point; you have got to cover the whole. Of course when we come to pumps and engines at 21st Street, when we come to those items, there is not the necessity of asking the same number of questions; you can pass along. But when you come to 42nd Street and when you come to 14th Street, where you have two plants that are dormant and that have not been working, where he has not been able to see them work, there are

a great many things in connection with them that must be brought out and can only be brought out by cross-examination.

Again, there is a certain further domain that has not been covered. Take the wooden structures, the buildings with wooden roofs, that are nonfireproof, a great many of them will have to come in. Then the question as to the pieces of equipment in those plants that are different from the ones in 99th Street, which will have to be covered by a reasonable amount of cross-examination. But I do not need to say to your Honor that 23174
I am mindful of the fact that we want to cover ground and I am trying to direct my question, making them general if I can, to cover some ground, so that we will not needlessly take up the Court's time.

But the question of depreciation, where they seek here a reproduction value way up in the millions of dollars—of course, the depreciation in this plant amounts to millions, and we cannot have it laughed out of court by this Arch Priest of the immortaility in gas plants, who comes into these cases like he did in the Kings County case and sets forth a view that shocked the Court, 23175
shocks and human mind, the mind cannot assent to it, the mind rebels at that character of testimony. The only difference between the Kings County case and this one is that here he comes along and says "Well, for $2.33, we will spend that much and make it better." Of course, in the Kings County case with the poor old dilapidated run-down institution down in Bay Ridge, properly maintained, brushed up, looked over with a little oil can that Montgomery & Stone used in "The Wizard of Oz," it is just as good as new

and will live on forever. That is so shocking, your Honor, that, as I say, the mind rebels against it.

The Master: The whole point in my mind is whether you have not sufficiently indicated—

Mr. O'Brien: Well, I have not, your Honor, because I am going to show in some small ways—I hope to from the way the figures run on—that it is a sloppy kind of work. They put a bunch of figures in here; this man, a man of affairs, is dealing with hundreds of millions of dol-
23177 lars and he cannot even give the Consolidated Company the job or the attention that it deserves. He is no better than a Victor talking machine on the stand, and I ask him a question about it so as to get some personal view of this machine or that general machine, and immediately he has got to go into this same old hot house production of these exhibits and say, "Well, I don't know what that machine is, but whatever it says in the book there is what you have to do with it to make it 100 per cent perfect." Your Honor, I hope that our cross-examination will be so helpful you are going to grant our motion at the end
23178 to strike the testimony from the record.

The Master: No, I am not going to strike Colonel Miller's testimony from the record. That is what I tried to indicate to you.

Mr. O'Brien: I do not think the Consolidated Gas Company do themselves honor or credit anyway, in coming in with this proof. If a statute is going to be attacked in this great big question in the year 1919, that means much to this company and means a whole lot to the consumers, and it means so much for the moral effect it will have throughout the country—is going to be based on a foundation of that kind, then I say

the men who produce that kind of testimony and ask the Court to receive it are enemies of the Republic and are enemies of the city, and they do not have the future of the country at heart. There is not anything spread eagle about that.

I mean what I say, your Honor. I say respectfully that they should come forward, put the cards on the table, stand on the facts for what they are, and not come in and take up my time and yours by saying for $6.93 you can put that boiler in such a condition it will last forever. It stultifies you and it stultifies me to be connected with a case 23180
of that kind.

The Master: What you have said fortifies my judgment that further cross-examination is not going to be of any use. That is my view about it.

Mr. O'Brien: Your Honor, I would suggest that you watch the trend of the examination in the 14th Street and 42nd Street plants.

The Master: I think your argument is just as good now as it ever will be, and I am inclined to your view of it. You have made your point. You have indicated questions that justify an argument in favor of the proposition that, arriving at the value of this plant, I must not give any weight 23181
to Colonel Miller's testimony. That is all there is to cross-examination. I do not think there can be any more.

Mr. O'Brien: I know, but the complainant will take an appeal from your Honor's decision in this case.

The Master: The complainant? He expects that you will.

Mr. O'Brien: We want to have the record there show some things about the 14th Street and 42nd Street plants. When it comes to the 21st Street

plant, of course as to similar items I will not need to take up the time, but I trust your Honor will see my view of it and let us go along uninterruptedly. I do not need to assure your Honor that I will endeavor to avoid repeating the things I have gone over.

The Master: The only point about it is I sit here in the nature of an umpire. I see the things from all angles. You see it from your angle, and that is why you frequently throw your hands up in holy horror because I do not agree with
23183 you or make rulings to shut you off. That is the advantage a man has watching the game from the sidelines: He gets the view of the general situation, where the men in it do not get it, but have their own points of view. I know how it is myself when I am trying a case. All I consider about it, is the impression on my mind now is, that any further time spent on this cross is not going to be helpful to you.

If you are right about your argument, you are right now. If you think you are going to ask a few questions about what you call the discarded plants, that are not now in operation, I will let
23184 you spend a little time on it. But get through it, I will let you go a little ways in the morning.

Mr. O'Brien: If your Honor will just refrain from sustaining any objections and give me about one week with this witness—

The Master: I am going to finish with him before recess tomorrow. My judgment is we will be finished with this witnesss before eleven o'clock tomorrow.

Mr. O'Brien: But the question of depreciation is a very important item.

The Master: This witness has not been called to testify to depreciation.

Mr. O'Brien: It is a bird by another color.

The Master: Don't you get the situation?

Mr. O'Brien: You do not call it depreciation?

The Master: Why, no, they are not proving any depreciation.

Mr. O'Brien: Of course he is not; he is trying to prove there is not any depreciation.

The Master: Yes, and you say this does not prove it.

Mr. O'Brien: He is trying to go contrary to the United States Supreme Court.

The Master: And you say he does not prove 23186
it.

Mr. O'Brien: But I do not want this case to go in without showing just how little time he spent in 21st Street.

The Master: You got all that.

Mr. O'Brien: I want to go into the 14th Street and 42nd Street plants.

The Master: You got all that.

Mr. O'Brien: Those plants that are falling apart, except where they got those huge buttresses of Hindenburg wall that closes it up there.

The Master: I am going to close this examination before eleven o'clock tomorrow. 23187

Mr. O'Brien: I think you ought to let us make our record in our own way, your Honor.

The Master: I think you have.

Mr. O'Brien: We are only just going to add to the quickening and hastening and the incomplete work of the witness if we are going to try it this way.

Adjourned to Tuesday, December 2, 1919, at 9:30 A. M.

Last Complainant's Exhibit No. 382.
Last Defendants' Exhibit AA26.

CONSOLIDATED GAS COMPANY OF NEW YORK] vs. NEWTON, ETC., *et al.* 23191

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, December 2, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 23192
MR. O'BRIEN, of Counsel for defendant Swann.

ALTEN S. MILLER, resumed.

Mr. Ransom: If the Court please, before we start may the record show that I have today furnished to the defendant with respect to Exhibit 366, the details of rentals of jointly used facilities, 1906 to 1917, inclusive, as shown in Exhibit 366; the details of miscellaneous rent revenue for the same years as shown in Exhibit 366; and the details of real estate taxes applicable to the gas business for the same years, those being the three elements for which Major Clark called. 23193

Mr. O'Brien: I object to them as incompetent, irrelevant and immaterial.

Mr. Ransom: I am not offering them in evidence.

Mr. O'Brien: And they are *improper*, being presented at a time when I have finished the cross-examination of the witness, Teele.

Mr. Ransom: I am only asking to have them marked for identification.

Mr. O'Brien: I object to them being offered or marked in any way.

The Master: Mark them for identification.

Mr. O'Brien: I record my objection, your Honor, and call the attention of the Court to the fact that these were not presented to me at or
23195 before my cross-examination of the witness Teele, and that there is apparent effort being made to keep them out of the case until I get through with the cross-examination of the witness Teele. This has a bearing upon the admissibility of the Teele exhibits, your Honor, and I think—

The Master: The record shows very clearly what happened. Major Clark was the only one of the counsel to ask that certain information be given to him before he cross-examined and that is being done. Mark these papers for identification.

Mr. Clark: My request included the entire
23196 question of taxes and the further request for the details of the adjustments in the cost of distribution and manufacture. May I ask a ruling? I understood that was to be prepared.

The Master: I understood what you asked for was what you wrote down on the slip, and that was being prepared.

Mr. Ransom: These tables, I believe, cover what Major Clark asked for on that slip. During Mr. Chambers' cross-examination, Mr. Teele said that there was being prepared details of the cost of production. That has not yet been fin-

ished, but will be furnished as soon as finished.

Mr. Chambers: You mean cost of distribution?

Mr. Ransom: Yes, production and distribution.

Mr. Clark: The taxes besides real estate taxes, I asked for in the slip, are not included in the schedule.

Mr. Ransom: If that is not included in this schedule, it is being prepared. The taxes are all being compiled. If they are not in this exhibit they will be furnished.

The papers were marked Complainant's Ex- 23198
hibits 383, 384 and 385 respectively for identification.

Mr. Chambers: While we are waiting for Mr. O'Brien, I want to move to strike out Mr. Miller's testimony upon the following grounds, and I quote from the brief of William L. Ransom in the Brooklyn Borough Gas case vs. The Public Service Commission, as the grounds:

"No New York or Federal Court has ever held that an appraisal which deducts nothing but 'observed depreciation' and is predicated upon the theory that the plant was substantially as good as new (its service value) is a basis for a deter- 23199
mination of value or is entitled to any weight whatever. The sum of the plaintiff's argument is that Shattuck's figures are entitled to consideration, but it seems that the only consideration that they are entitled to is that they be stricken from the record in pursuance of the pending motion before the Referee to that effect (M. P. 743), without disclosing in more detail the fallacies underlying them. To say that the appraisal should have consideration means nothing"—

The Master: No, I won't take argument.

Mr. Chambers: Well, I just want to read the grounds. There is just a little more of it.

The Master: Well, go ahead.

Mr. Ransom: The motion was denied.

Mr. Chambers (continuing): "What weight can the Referee give to an estimate based on theories which the Court has expressly repudiated?"

I think that states it in substance. There is more of it.

The Master: Motion denied. I have already said that I am not at all clear that there is anything in this testimony, but I will deny the motion and take it under consideration.

23201

Mr. Chambers: Well, counsel himself has repudiated it and in another case asked that—

The Master: That is one of the points I will have to get to before I finish this case. My own opinion is that I won't have to pass on it, but that if I do, I am inclined to agree with what Judge Ransom said in the other case.

Mr. Ransom: Well, my associates in that case and in the other cases in behalf of the Commission as it then stood, went to the Court of Appeals on this question of depreciation reserve, and although they won a four to one decision in the Appellate Division of this State in favor of the views held by the Commission, they received a unanimous decision of the Court of Appeals adversly in the New York Railways case.

23202

The Master: Well, the difficulty that I see with it is a very technical difficulty. All of these arguments sound very pretty in theory, but the net result is that something that is old cannot be new. That is the way it runs in my mind.

Mr. O'Brien: That is what the Supreme Court

said, your Honor—when a piece of pipe is put in the ground, it then begins its course toward decay.

The Master: Well, I am not going to pass on it now. What I am trying to indicate to you is that you have enough on the record to argue all of the points raised.

Mr. O'Brien: That brings me right—

The Master (interrupting): And what I am trying to indicate to Judge Ransom is that he will probably have to show me that he is right.

Mr. O'Brien: Your Honor, that brings me 23204
right now to a very important part of this proceeding, proceeding with this witness, and I am going to ask counsel now, and I think in view of the manner in which I was asked during cross-examination to state the purpose of every question, the point that would be served, the reason why it was asked, I think it is perfectly proper for us to ask counsel for the complainant here and now to state any and all the purposes why this witness was produced. That has a bearing upon the latitude that I ought to follow in the cross-examination of the witness. It may be, your Honor, that surreptitiously they are trying 23205
to put into this record what should be annually the expenditures for repairs by this company; it may be that they want you, apart from the question of depreciation, apart from the question as to how much you ought to deduct from all the other elements of value, to get your basis upon which you are to compute a fair return, that they want you to consider this point. That in order to put this property in repair at the present time you ought to spend some $322,535. Now, if that be the point, your Honor, we ought to cross-examine still further.

The Master: Wait a minute. Judge Ransom, as I understand the purpose of this testimony, it is for the purpose of showing that the plant is practically as good as new; that with the expenditures of three hundred and some odd thousand dollars it would be as good as new.

Mr. Ransom: You mean so far as this Exhibit 377 and the testimony which relates to that exhibit is concerned? Of course, Col. Miller's testimony covers certain other things.

The Master: For instance what?

23207 Mr. Ransom: Well, he testified with respect to the limit of prices.

The Master: Yes.

Mr. Ransom: And several things like that in addition.

The Master: What I have in mind is that so far as Col. Miller's testimony has to do with the condition of the plant and the amount to be expended to make it as good as new, it has to deal only with my finding that the plant is worth a certain sum of money.

Mr. Ransom: Col. Miller's testimony showed, to my mind, in that respect, certain things. In

23208 the first place—

Mr. O'Brien (interrupting): He is evasive, your Honor; he don't meet your Honor with any candor at all.

The Master: Well, how long do you suppose any counsel in this case can evade the point I want to get?

Mr. Ransom: As long as Mr. O'Brien talks, and that is the full length of time, and that is indefinitely.

Mr. O'Brien: Give us a direct answer, won't you?

The Master: If Mr. O'Brien will contain himself for a minute, or restrain himself for a minute, I will try to get this point clear, and get this cross-examination down.

Mr. Ransom: And I will take advantage of the first moment of silence so far in this case, to say that the sum of Col. Miller's testimony shows certain things; first that the operating condition of the plant is first-class and excellent; in the second place that the plant is physically in good condition; in the third place that with the expenditures which he indicates in relation to the 23210
present physical condition of the property, that the property can be made physically good, so that it is substantially as good as new. We are referring here to physical condition, not entering into any metaphysical argument about cost of properties or second-hand or disposal of property by units in some market for second-hand goods. We have shown here, we believe, in the first place, the excellent operating condition of these properties, that they have been kept up from year to year; and in the second place, that with respect to the present condition, that Mr. Miller is an expert engineer, and has been over 23211
them, and he finds in instances which he specifies, the things which need to be done.

The Master (interrupting): Mr. O'Brien's theory is that—

Mr. O'Brien (interrupting): Just a minute, Your Honor. There is nothing like smoking them out, just what I had in mind. That is not fair dealing with the Court. When he presented that witness before you, he did not represent these different purposes; he did not tell you that what he was bringing him in here for was under the guise

of a depreciation, to testify as to how the plant was operated.

The Master: I do not understand that Judge Ransom's statement is any different from what the witness has said, and what I assume his testimony to be. I understand his testimony to be in substance this: I am an expert; I know the condition of a plant when I look at it; I have looked at this plant, and this plant is in fine condition; it needs some repairs, but if this company were to expend $300,000 approximately on this
23213 plant, it would be substantially as new, give as good service as a new plant, and last practically as long. Is not that the substance of his testimony?

Mr. Ransom: Yes.

The Master: Are you offering his testimony to show the necessity of spending $300,000 on it?

Mr. Ransom: No.

The Master: That was your point, was it not?

Mr. O'Brien: That is my point.

The Master: He says that is not so. I did not
23214 so understand. In substance your contention is, as I understand it, Judge Ransom, that this plant with "X" dollars is as good as new; except that it will require $300,000 to make it so?

Mr. Ransom: Yes.

The Master: Therefore, assuming $300,000 to be one per cent of its cost, it is worth 99 per cent of what it cost, today?

Mr. Ransom: Assuming that to be the percentage, yes. Of course that percentage is very low.

The Master: I do not know what the percent-

age is; but for the purpose of illustration, if you say it takes one per cent of its original cost to repair it and make it new, it is worth 99 per cent of what it cost you.

Mr. Ransom: Of course, the company claims it is entitled to a return on its unimpaired investment.

The Master: All I wanted to make clear was what the testimony was offered for, so we would have no misunderstanding about it, and so Mr. O'Brien would know why I ruled that the cross-examination has gone far enough. 23216

Mr. Ransom: I may say this, further, which may clarify the situation in your Honor's mind. The testimony of Col. Miller to a degree may be called defensive. We agree with your Honor that it ought not to be necessary upon this kind of a situation to go into questions of property or questions of depreciation at all. Here is a company that it is now costing more than 90 cents to make and distribute gas. The company is losing at a rate considerably in excess of $2,000,000, merely on operating expenses, per year. Under those circumstances questions of theoretical depreciation, or property, or condition of property, be- 23217
come well nigh academic. But we did feel, especially in view of the reiterated assertions that have been made by counsel for the defendants that these properties were in some ramshackle and broken down condition, that we had to show and ought to show, not only for the aid of this court but for any later court to which this case might be brought, what the condition was. The best way of showing what the condition was would be not only to describe it, as Col. Miller would cost to remove whatever of defect or what-

ever of lack of up-to-the-minute repairs were necessary.

The Master: All right. Now go ahead, Mr. O'Brien, and ask your questions. Having in mind the situation as it now is, you ask such questions as you think are useful and I will rule on them.

Mr. O'Brien: Your Honor, counsel for the complainant has not asserted that there are not other purposes that he has put the witness on the stand for.

The Master: I understand there is no other

23219 purpose.

Mr. O'Brien: They have got in the underlying computation made by the witness's men, a long detailed statement or computation of wages, and I take it that they are also surreptitiously trying to get on this record the parallel, as per witness, Miller, of the wages paid, of various kinds, in 1914.

The Master: As he has testified, yes.

Mr. O'Brien: And in 1918.

The Master: That is correct.

Mr. O'Brien: And that is a very important matter in this case.

23220 The Master: Well, go to it. That is correct.

Mr. O'Brien: It may be here under the guise of a—

The Master: No, there is no guise about it. The witness is called to show that it costs a great deal more to make repairs now than it did four years ago. Go ahead and cross-examine him about it. I will not let you cross-examine him long about it, because I think it is beyond question of doubt. I think any man who questions it is a fool

Mr. O'Brien: Your Honor, there was no contention ever made by the defendants as to war time conditions and war time prices.

The Master: No, but what is the use of wasting time? Of course the witness may over-estimate certain items; he may be too high in the cost today and too low as to the cost previously. But the fact that it costs more for labor today than it did years ago is a fact, and anybody who does not assume it to be a fact is simply stupid. The Court is not supposed to be deaf, dumb and blind; he is supposed to know what is going on 23222
in the world. Justice may be blind and have a handkerchief tied around her eyes, but the Judge ought to see it here.

Mr. O'Brien: Judge Ransom criticized the Court for its apparent disrespect of the courts, and that still stands indelibly in this record. But he builds his own fetish, you know. He will bring in the Brooklyn Borough case and tell you what Judge Hughes did, where he himself as a public official was silent on matters that he ought to have brought forth.

The Master: Proceed.

By Mr. O'Brien: 23223

Q. Colonel Miller, what examination did you make at 99th Street of the oil tanks?

The Master: I do not think I will take any more on what he did at 99th Street. I think we have a pretty clear picture of what he did.

Mr. O'Brien: There are two or three items that I want to cover, your Honor. I will not spend much time on them.

The Master: How many? How many items?

Mr. O'Brien: About three items.

The Master: Well, go ahead.

A. Such part of the oil tanks as were visible I examined; such parts as were not visible I could not examine. So I examined such parts as were visible.

Q. How much of these tanks is below the ground?

A. A very considerable portion of them is below the ground.

Q. Can you not as an engineer tell us how much protrudes above the ground?

The Master: What part of the tanks that was above the ground did you look at?

The Witness: I cannot recollect. I do not think there was very much.

23225

Q. Do you know where they are located; can you tell us that without consulting some map you have.

A. No.

Q. Were they put in in your time by the Consolidated Gas Company?

The Master: The question is not allowed. Well, I will allow that; I will change my ruling.

A. Not to my best recollection.

Q. Was there any other examination except the visual inspection made by you?

A. No.

Q. Do you consider they are just as good as when

23226 they were first put in?

A. Yes.

Q. You have been refreshing your memory before answering that question by looking at what paper?

A. At the paper that I furnished your engineer.

Mr. Ransom: What is it?

The Witness: A copy of the paper I furnished his representative, I should say.

Q. Why do you say, having made only a visual inspection of these tanks, most of which are under the ground, that you believe they are just as good as when they were put in or when they were new?

A. Because I have to do with a great many varied oil tanks. I find as a matter of fact that oil preserves steel when it is in contact with it. I find also that in putting in oil tanks of this kind care is taken of the nature of the ground in which it is put; that the seepage of oil and the spilling of oil preserves the exterior of the tank, even though it is not in particularly good ground. These tanks are in good ground, they have had oil spilled around them, and there is every reason to suppose they are as good as when they were put in.

Q. So you passed over them with a visual inspection because of your experience with tanks in other places? 23228

A. That is correct.

Q. These are pretty small tanks, are they not?

A. I do not remember the capacity of them.

Q. Did their capacity and location and the time they had been there figure at all in your judgment as to how good they are at the present time?

A. No, except in so far as the soil was determined somewhat by the location.

Q. Are these on ground, it has to be supported with piles?

A. I do not know. 23229

Q. You said yesterday that you thought there were piles driven on the site of the 99th Street works, did you not?

A. I did not say under the oil tanks. I said on some part of the 99th Street works, I think there are piles. I do not know just where they are.

Q. If the ground was such that it required piles placed under the buildings to sustain them, would that character of soil or ground or subterranean condition have any deleterious effect upon the tanks?

A. No.

Q. It would affect their support at least, would it not?

A. Of course, the nature of the soil affects the support of anything resting on the soil.

Q. What is the life of a tank, in your opinion; an ordinary steel tank of the size of those at 99th Street?

A. I do not recollect the size at 99th Street, nor do I think that the size in any way controls the life.

Q. Well, then, give us the life of any tank?

A. Please let me finish, do not interrupt me.

23231 Q. I do not want a speech, Colonel. I want you to answer my question.

A. Do not interrupt me.

Q. You could say "50 years," and say it quickly.

A. Please do not interrupt me. If a tank is properly maintained, it will last indefinitely. There is no limit to its life.

Q. Well, by that do you mean it might be there for 150 years?

A. It might be there for a thousand years, yes.

Q. You mean it would be there for a thousand years.

A. I mean it would be, if properly maintained.

23232 Q. In the absence of earthquakes or similar disaster?

A. If properly maintained, yes.

Q. If properly maintained?

A. Yes.

Q. What would that consist of, in the case of an oil tank?

A. In the case of an oil tank, buried in the ground, if there is clay or sand around it, the spilling of a little oil around there occasionally.

Q. That is all that would be necessary?

A. That is all.

Q. In your opinion?

A. Yes.

Q. To give it this indefinite life?

A. Yes. I can tell you what would be necessary in an open tank, if you want.

Q. Will you describe the character of the coal sheds here?

A. Not in detail. It is a brick shed; it is described in the exhibit in this case.

Q. Have you got to go back, in the case of all these items to the data prepared by your men to give me an answer when I ask for a description of a 23233
building?

A. Ask those questions one at a time, please; ask one at a time.

Q. Can you tell me now, can you describe the coal sheds in the 99th Street plant?

A. The description is in this paper, which is an exhibit in the case.

Q. I asked you if you could describe it? I do not mean by referring to any record.

By the Master:

Q. Can you describe it without referring to the notes?

A. Not in detail. I can in general. 23235

By Mr. O'Brien:

Q. Can you give us any description of it?

A. It is a brick building, with a slate roof. Part of the roof is flat, covered with tar and gravel, and with a track on it.

Q. What part of it is built of wood?

A. The roof, under the tar and gravel.

Q. Is that the only part that is built of wood?

A. To the best of my recollection, it is.

Q. There are elevators in this building to bring up the coal from the lower level to the level of the second floor of the generator house, are there not?

A. Yes, there is one; I do not remember whether there is more than one or not.

Q. And they are built of what?

A. The elevator? The elevator has steel cable; I do not remember whether the platform is iron or wood.

Q. What are the sides built of?

The Master: Do you mean the elevator shaft?

Mr. O'Brien: Yes.

A. I think corrugated iron. I am not certain on that point. My recollection is it is covered with
23237 corrugated iron, where it comes above the roof, but I may be mistaken in that.

Q. When were you there last?

A. Two or three weeks ago.

Q. Did you ride down in that elevator?

A. No, I did not.

Q. How did you get down from the level of the roof?

A. There is a city ordinance against riding on freight elevators.

Mr. O'Brien: Colonel, you don't mean that.

By the Master:

Q. For inspection purposes?

23238 A. There is an ordinance against riding on them. I don't know—

The Master: Oh, yes, of course there is an ordinance against freight elevators being used for passenger travel, but that ordinance does not mean that a man inspecting the plant cannot ride up and down to see if it is in proper condition.

By Mr. O'Brien:

Q. Is that the reason for not riding on it?

A. No.

Q. Why did you ring in that statement?

A. Just for information, the general statement.

Q. It is a fact, then, that you did not go up and down on that elevator?

A. I did not go up and down on that elevator.

Q. Did you go down the stairs, the outside stairs?

A. Yes.

Q. That is of wood, is it not?

A. To the best of my recollection it is.

Q. The fences are of wood?

A. Yes.

Q. Around this property?

A. Partially; not entirely, no. A good many—there is a good deal of brick wall around this plant. 23240

Q. What?

A. There is a good deal of brick wall around this plant.

Q. There is no brick wall around where this coal shed is, is there?

A. In the east end of the property, in which the coal shed is, the fences are wood; at the west end they are brick.

Q. Where is this dwelling house that you say would require $325 in 1919 to make it last forever?

A. I did not make any such statement as that, at any time.

Q. Well, do you ascribe a different life for a 23241 wooden structure?

A. I do not ascribe a life for any structure.

Q. Do you say that the amount indicated, if used upon the frame dwelling at the present time, would give it indefinite life?

A. No, I do not say that.

Q. You have a different view with regard to wooden structures, then?

A. No, I have the same view with regard to wooden structures as I have with regard to other structures.

Q. That is eternity, too, is it?

A. No, I have no idea of eternity in anything.

Q. In what respect do the wooden structures differ from those made of steel or iron?

A. They do not differ from them if properly maintained.

Q. As to the life you give them?

A. They do not differ if properly maintained.

Q. If properly maintained they will go on forever, too?

A. They will go on forever if properly maintained, and all defective parts are properly replaced.

23243 Q. Do you know where this dwelling house is that you refer to in this Exhibit 377?

A. Yes.

Q. Where is it located?

A. It is east of the main portion of the plant.

Q. What place?

A. 99th Street.

Q. What part of the plant is it located in?

A. It is not in the plant itself; it is east of the main portion of the plant. I will give you the street number if you like.

Q. No, I am asking you. Never mind the blueprint. Colonel, never mind the blueprint. I am testing your memory now?

23244

A. My memory, I have testified just on the other side of the street, east of the main portion of the plant. I do not remember the name of that street, I do not know whether it is Avenue A or Avenue B.

Q. Do you recall what kind of a structure it is?

A. It is a small frame structure.

Q. About how big?

A. I don't remember the exact dimensions. It is specified here (in exhibit); it is a small frame dwelling house.

23245

Q. You could not describe that from your visit of two or three weeks ago?

A. I have described it as a small frame dwelling house.

Q. I mean, you could not approximate its dimensions; you would not trust your memory that much?

A. Well, there is no use in lumbering up the record with figures that are only approximate.

Q. You have a tender solicitude for the record, have you not?

A. Please wait a moment, let me finish. I have, yes.

23246

Q. I am asking you a question, Colonel. You are not the lawyer now. You are on the witness stand.

Mr. Ransom: Even a witness has some rights against the Corporation Counsel. I suggest that the witness be permitted to answer the question.

Mr. O'Brien: I have asked the witness a question, I want an answer.

Mr. Ransom: Well, let him answer.

The Witness: Well, if you want an approximate answer which has no particular value, I should say it is about 20 by 30 on the ground.

By the Master:

23247

Q. How high?

A. And about twenty feet high.

Q. A couple of stories?

A. Yes, a two-story building.

By Mr. O'Brien:

Q. Did you go in it?

A. No, I did not.

Q. You just passed by the road into the yard where the coal is?

A. Looked it over, walked all around and looked it over.

Q. Did you see the chickens and hen coops around in the back?

23248 Alten S. Miller, Cross.

The Master: Never mind the chickens and hen coops.

Q. Did you go in the engine house?

A. Yes.

By the Master:

Q. Let me just ask him a question. How can you say that that building can be put in condition as good as new by looking at it from the outside, with an expenditure of $300?

A. Your Honor, I discussed with—

Q. Do you know what the plumbing is inside, what
23249 the plaster condition is?

A. There is almost no plumbing. Yes, the plaster condition I could see just looking in the window.

Q. By looking in the window you could see the plaster condition of the whole house, of the upper story?

A. No.

Mr. O'Brien: He did not say he looked in the window, your Honor; he said he passed by over the road.

The Master: He said just now he looked in the window.

The Witness: I discussed the thing with people
23250 all around there as to the condition, comparable conditions in different parts of the house. I did not like to go in.

By Mr. O'Brien:

Q. With whom did you discuss that?

The Master: You need not waste any more time on this. Go on and get through with the witness.

Q. When I asked you yesterday as to the cracks and the dilapidated condition of the engine house, which engine house did you have in mind?

The Master: I will not allow that question.

Mr. O'Brien: I fear he has mixed these up, your Honor.

The Master: Well, maybe he has. Go on and get something else.

Q. Did any of the holders of the Consolidated Gas Company ever collapse?

The Master: That question I will not allow.

Q. Did any of the holders of the Consolidated Company ever collapse while you were in their employ, or with the East River Gas Company?

The Master: I will not allow that. If you have any questions to ask about the range of labor 23252
cost or the material cost, as bearing upon—

Mr. O'Brien (interposing.): I want to take up the holders for a minute, your Honor.

The Master (continuing): As bearing upon the difference between what it would cost to do this work separately and what it costs now, I will let you ask a few questions on that.

Mr. O'Brien: Your Honor, I am on the holders. I want to pass over the holders with some questions, if you will indulge me that far.

The Master: Do not ask him whether any holder ever collapsed then; ask him some pertinent question. 23253

Q. Well, can you state generally, Colonel Miller, why in respect to the various holders that are set forth on pages 49 to 51 of Exhibit 377, you have different amounts of money set opposite the holders to give them this new life?

A. No money is shown there to give any new life. The holders are just about as alive as anything could be at the present time.

Q. Will you please answer my question, Colonel?

A. I cannot answer two questions at a time.

The Master: What do you mean by that question?

Mr. O'Brien: Your Honor, he has got set down here in some cases, as to the 42nd Street holder, that it would require $30,000 to put a two-lift holder into this new condition, brand new, to live forever.

Mr. Ransom: He never said any such thing.

The Master: What is your question?

Mr. O'Brien: I want to ask him how he accounts for the different conditions of the different holders that he has narrated here in this exhibit.

The Master: All right.

23255 By the Master:

Q. Can you answer that Colonel Miller? Why is it that some holders are in better condition than others.

A. Because some have been better maintained than others.

Q. By that you mean more money has been spent on some than others?

A. They have been more regularly painted and cared for, yes, sir. The holder that counsel particularly refers to as having a very large expenditure on has not been regularly maintained and painted, and I have figured on the value of a new holder in the old

23256 guide frame and tank. A new holder in the old guide frame and tank at that point would cost $30,000 at the present time.

By Mr. O'Brien:

Q. When you say they have not been properly maintained, where it costs more money, you are assuming that from the present condition?

A. Entirely from the present condition of the holders, yes.

Q. Then your assumption, or your position with regard to these holders is, that irrespective of when one or the other was put in, erected, irrespective of

how long they have been there, if they each received the same amount of attention during the years they had been there they would be in the same condition today?

A. No, that is not a fact.

By the Master:

Q. This 42nd Street holder seems to have had a lot of attention, Col. Miller. You say here it has a great many patch plates?

A. Yes, but the patch plates—

Q. What?

A. That patching was an attempt to save it after it 23258
had been neglected for a number of years.

The Master: Come on, we have had enough of this.

Mr. O'Brien: Well, he was answering a question there, your Honor.

The Master: Get to something else.

Mr. O'Brien: I would like to have that answer complete. Read the question, please.

(Question read): "Then your assumption or your position with regard to these holders is, that irrespective of when one or the other was put in, erected, irrespective of how long they have been there, if they each received the same amount of 23259
attention during the years they have been there they would be in the same condition today?"

A. No, that is not a fact.

Q. What is a fact?

A. The fact is that if they had all received proper attention, and had been regularly and frequently painted, they would be in the same condition. If not the condition would depend entirely on the design. There are some designs that will deteriorate very much more rapidly than other designs.

Q. What is the inferior design?

A. Inferior designs are places where there are a lot of pockets to catch rust and hold water, which cannot be reached in ordinary—which would not be reached, rather, in ordinary careless maintenance

Q. What is the proper method of painting a gas holder to preserve it, Colonel?

A. It depends entirely on the condition of the old paint. If the old paint is not properly adhering, and there is any water under it, it should all be scraped off and repainted. If the old paint is a good coat, then
23261 a brushing with a wire brush or some simple method of removing all the loose scales or loose parts is sufficient. Generally they are pretty well scraped before being painted, and brushed with a wire brush. Sometimes they even go to the extent of going over them with an intermediate oil, something like possibly kerosene or a little bit heavier oil, which is afterwards taken off with gasoline. Then the paint is put on immediately after that.

Q. They may be painted at any season with the same effect?

A. They can be painted at any time when the weather is such that the holders will dry quickly,
23262 yes.

The Master: That is enough on that, how they paint holders.

Q. How much time altogether did you spend in the 42nd Street plant?

The Master: Not allowed.

Mr. O'Brien: Exception.

The Master: The record is quite complete, as indicating the time spent by this witness in all the plants and how much he could have spent in any one plant, and how he did his work. We have had enough on it; the record is clear enough.

Mr. O'Brien: I propose to take up particularly now the 42nd Street and 14th Street plants as I indicated last night, your Honor. They cover almost one-half of this whole amount.

The Master: What do you want to cover there any more than you have already covered?

Mr. O'Brien: I want to find out how he came to his opinions. There we have two relics of other days that are not in action.

The Master: Go ahead and ask a few questions.

Mr. O'Brien: At 42nd Street I would like to 23264
know how long he spent there.

The Master: If you will not ask the question, I will

By the Master:

Q. What did you do at the 42nd Street plant to find out what condition it was in? It is not in operation, is it?

A. No.

Q. Did you take the machinery down?

A. No.

Q. Did you take any of it apart.

A. No.

Q. What did you do? 23265

A. There is very little running machinery, you understand, sir, in a coal gas plant. That is a coal gas plant.

The Master: Yes, I know it.

A. (Continued.) And there is very little running machinery in such a plant. As far as the running machinery went, I discussed at great length with the superintendent the condition as to how it had been kept up, etc., and being such a small percentage I did not think it necessary to take it down. The retorts and boilers and benches I examined as well as

I could, visually, by looking into the furnaces, looking through the peep holes around the retorts, looking into the retorts, and looking at the settings.

The Master: Now you have got quite enough for your purpose. I can see it better than you can.

Mr. O'Brien: I know you can, your Honor.

The Master: What is the use of wasting the time? The witness has told you frankly what he did; as to machinery that works, pumps of some kind, he has taken the statements of men around the plant as to what attention has been given it; as to the retorts and other fixed items there that have stood there without being used, he looked at them. What more can you want?

23267

By Mr. O'Brien:

Q. What effect has the disuse of these machines and this equipment had upon it?

A. On the running machinery, if kept wiped up, so that it does not rust, it has no effect, if it was properly oiled when it was shut down.

Q. You mean by that the machines and pumps, etc.?

A. Yes. Of course, if they were shut down in bad condition, left with water in them, they would rust. On the retorts and the balance of the equipment in the plant the shutting down has no effect whatsoever. They will last there indefinitely. They will be in just as good condition at the end of ten, twenty, thirty, forty or fifty years as they were when they were shut down.

23268

Q. Have you ever seen a plant put into action after it had been in disuse for ten, twenty, thirty, forty or fifty years?

A. No, but I have seen it put into use after it has been in disuse for several years, and if it would last that long it would last indefinitely. There is nothing

in it to deteriorate. These benches are made of brick, mortar and clay, and special clay shapes, and there is nothing there to deteriorate.

Q. You did not go into the question as to how much they had spent when it was continuously going, to keep it in use? You did not look into the amount of money spent on repairs when 42nd Street was an active plant?

A. No, but I knew from the condition that there had been a great deal spent on repairs; it is perfectly evident from the condition of the plant.

Q. Now, did you inquire of the superintendent 23270
there anything about the last time it was started up, and how long it took to get it going?

A. I did not inquire as to the last time. He volunteered information that it was necessary to start it in 1918, to keep up the supply of gas; but I did not ask that.

Q. You did not go into the question as to the conditions that were disclosed at the time they attempted to get it going there in the winter of 1917 and 1918?

A. No, I did not go into it, but it did not make any difference what the conditions were at that time, as long as they had been repaired when I was there. 23271

Q. What conclusion did you come to in respect to that portion of this plant that was partly destroyed by fire?

A. I was notified by the company that there was an amount in its treasury to replace the portion that had been destroyed by fire, and I took no account of that.

Q. You gave, then, no attention to the walls that stand there?

A. The walls that were there, yes, I went over very carefully, but I did not attempt to replace the

property destroyed by fire, and necessarily that same thing—

Q. Do you mean to say—

Mr. Ransom: Let him answer, won't you?

The Witness: The same thing applies to the boiler at 21st Street, which was destroyed by explosion. I made no allowance for replacing that, on account of the statement of the company that the insurance—there was an insurance fund to replace it. Those two items were not restored by me in theory, in the same way
23273 that I did not restore certain holders and other property which was not included.

Q. I will ask you, referring to your notes, to tell us just what portion of the 42nd Street plant you excluded from attention and inspection because of the statement to you that there was money in the treasury to cover the expense of that new or to maintain it.

Mr. Ransom: Objected to, the exhibit speaks for itself.

The Master: I will allow the question.

The Witness: There was no part that I did not inspect thoroughly. The damage done by
23274 fire to the one coal shed I did not attempt to replace.

Q. Was it only one coal shed that was damaged?

A. That is all.

Q. Are you sure of that?

A. That is all.

Q. Is that what it appears from your inspection of this plant?

A. It is my recollection that there is only one coal shed that I did not restore, because that coal shed was damaged by fire.

Q. Was that the one on the south side of 41st Street?

A. That was the side.

Q. How about the one on 42nd Street.

A. 42nd Street side, I made the figure on renewing such material as was necessary

Q. And what did you count on putting in there to replace that building as it stands and make it new?

The Master: The question is not allowed. It shows in the exhibit.

Q. What did you figure on doing to that coal shed on the 42nd Street side? 23276

The Master: Not allowed. It shows in the exhibit, doesn't it?

The Witness: Yes. It shows in the details; not in the exhibits.

The Master: All right. State.

The Witness: I figured on putting a complete new roof on the building.

Q. What building are you speaking about, which coal shed?

A. The coal storage building Q and trestle T.

Q. Well, I do not see that in Exhibit 377. Yes, I have it, page 24.

A. The first item on page 24. I figured on pointing 23277
the walls and bedding the new trusses, putting on a new cornice, putting on six pairs of new doors, building new tracks, building a stairway, building 120 feet of trestle and putting new lining in the coal bunkers, a total amount of $22,296.

Q. Well, then, you would not comtemplate putting back that westerly side that was burned or destroyed? Must you refer to the blueprints to answer my question?

A. I want to be sure of exactly what you mean. West of that coal shed is the retort house.

Q. Guess again.

A. Oh west of it. Pardon me. West of the coal shed is an open space. I am mistaken. I was looking east instead of west. There is an open space.

The Master: What is the next question?

Mr. O'Brien: Well, he has not answered my old question yet. I am asking what he is going to do with the side of the building that was burned down. He is going to leave that open.

The Witness: Any part that was burned, I leave open.

23279 Q. Well, now, I am asking you a concrete question, Colonel, won't you answer me? If you don't know now or recall that, or do not think that it was destroyed, why not say that.

A. I have stated that it is an open space there west of that building.

Q. Isn't the west side of that coal shed open?

A. It is open, and that is what I stated two or three times.

Q. Wasn't it destroyed by fire?

A. Not so far as I know.

Q. Weren't there jagged bricks there along the edges and roof of that building?

23280 A. No.

Q. That is your memory, is it not, of the 42nd Street visits?

A. The west of coal shed Q, yes.

Q. Q-N, you have these Chinese figures here, Q N O 1.

A. Yes.

Q. That is an insurance symbol, is it?

Q. The Q refers to the shed, and No. 1 is also shown on the map as that same shed.

Q. It hasn't any significance as to No. 1 condition?

A. No, it is not, as indicated by the amount to be spent on it.

Q. These are all Mr. Aldrich's figures?

A. No, not so far as I know. So far as I know, none of them are his. Whoever signed the print can tell you.

The Master: You mean the identification figures?

Mr. O'Brien: Yes.

The Master: What difference does it make to you?

Mr. O'Brien: I don't know. I am trying to find out whether they are mystic figures that give him the cue to the answer to the question I am asking him. 23282

The Master: Next question.

Q. Now, these trestles are of wood, are they not, Colonel?

A. Yes.

Q. And it is your opinion that if you spend the money that is indicated in this exhibit here upon them, they will go on forever, too?

The Master: The question is not allowed.

Mr. O'Brien: Exception. Your Honor rules it out because of the repetition? 23283

The Master: I rule it out principally for the reason that the witness would answer, "I did not say that, I have not said that, I never said that, I said it would be as good as new," then you will start in all over again, "What do you mean as good as new?" "How long is it going to last?" "Do you mean eternity?"

Mr. O'Brien: He means all indefinite life.

The Master: I have ruled on it.

Q. The trestle does not run all the way over, does it, at the present time, to the coal shed?

The Master: Not allowed; I am not interested in that.

Mr. O'Brien: Exception.

Q. Is there any coal, or was there at the time of your visit any coal in any of the coal sheds?

The Master: Not allowed.

Mr. O'Brien: Exception.

Q. Was there any coal on the premises?

The Master: Not allowed.

Mr. O'Brien: Exception.

Q. Colonel, doesn't the condition of the three hold-
23285 ers that are not included in your estimate contradict your opinion about this indefinite life of holders?

Mr. Vilas: Objected to.

The Master: Not allowed, argumentative.

Mr. O'Brien: Exception.

Q. Did you examine the three holders that the company told you you were not to include in this exhibit?

Mr. Vilas: Same objection.

The Master: I will let him say whether he did or not. I think he has already said he did not examine anything that the company—

The Witness: I looked at the crowns and
23286 guide frames; I did not make a close inspection.

Q. They lay flat, they are not inflated at all, are they?

A. No.

Q. They were not on the occasion of your visit?

A. No, they were not.

Q. What about the dock here. Do you think a dock properly maintained will have an indefinite life, too?

A. Yes.

Q. And the superstructure of that dock?

A. If parts are replaced as they give out, yes. The

only part of a dock that will not give out, of course, is the piling under water, and the parts must be replaced as they give out.

Q. Did you ever have any experience with docks?

A. A great deal of experience with docks.

Q. With the East River Gas Company?

A. With the East River Gas Company and in Baltimore.

Q. And you found that by spending money on them for repairs, replacing parts from time to time, that they live on forever?

A. Replace all the parts as they give out, and there 23288
is no limit to the life.

The Master: Why, of course, if you build a new dock, it would be as good as new.

Q. You are getting within the domain of the Master's wide experience, I warn you, Colonel.

A. I am delighted with that. I wish he was familiar with every bit of this. I wish you were, too.

Q. Do you know how much money was spent on this dock from the time the company first acquired it?

Mr. Vilas: Objected to.

The Master: Not allowed.

Mr. O'Brien: Exception.

The Master: The witness has testified that 23289
he did not know how much they spent on any article or any piece of property or any dock.

Mr. O'Brien: Well, I recall that, your Honor, but we found afterwards patches where he had some personal knowledge.

The Master: Go on. I think you have fully covered your proposition.

Q. Did you go into the blacksmith shop and these other rooms in the subterranean parts of this plant?

The Master: Not allowed.

Q. Did you just pass down to the main passageway of the vault section of the plant?

The Master: Not allowed. My ruling is, Mr. O'Brien, that this witness has given you a very complete picture of what he did in this and every other plant, and that further questions are not useful.

Q. Do you recall what kind of roof the purifier house had?

The Master: Not allowed.

Mr. O'Brien: Exception.

Q. Wouldn't that roof have to be entirely replaced?

23291 The Master: Not allowed.

Mr. O'Brien: Exception.

Q. Isn't the roof in a dilapidated condition?

The Master: Not allowed.

Mr. O'Brien: Exception.

The Master: You see, I will explain to you why I am ruling that out. I allowed you to proceed to show just what this witness did, how complete his examination was, and how much weight I should give to his testimony. The minute you say to him, isn't that roof a pretty bad roof, he has on his list it is a good roof, and he will say so, it is a good roof, and then you will say, "Well, isn't it a bad roof," and he will 23292 say no, it is a good roof, and we will waste an hour talking about a bad roof and a good roof, when the witness says it is a good roof, and it will get us nowhere.

Mr. O'Brien: No, I do not think it would develop that way.

The Master: That cross-examination is not worth wasting time on.

Mr. O'Brien: I want to find out how much he knows about that roof.

The Master: You have shown how much he knows generally about the plant and equipment that he looked at, and you have brought out the fact that in the space of six or seven weeks, whatever it may be, or eight weeks, he looked at all of these plants and all of this machinery and all of these docks, and that I have got to take his testimony in the light of the conditions under which he worked and the time in which he did his work.

Q. Colonel, will meters—works meters suffer any ill effects if they lay idle for a long period? 23294

A. It depends entirely on the method in which they lie idle. If they are in an atmosphere of gas, no; if they are thoroughly dried, no; but if they should be left damp and left with any mud or anything on them, yes, they will.

Q. You mean internally?

A. Yes.

Q. And when you speak about if they are kept in an atmosphere of gas, do you mean internally?

A. Internally, yes; there is nothing externally to be affected.

Q. By that you mean if gas is going through them?

A. No, I mean if they are in an atmosphere of 23295 gas.

The Master: There are some meters over here at the 21st Street station. Did you open the meters?

The Witness: No, sir.

The Master: Did you look into them?

The Witness: No.

The Master: Do you know whether they are dry?

The Witness: They were in an atmosphere of gas.

The Master: There was gas in them?

The Witness: Yes.

The Master: How do you know that?

The Witness: Well, I could not swear that there was. I believe there was, from the condition of the plant.

The Master: Next question.

Q. If I were to question you, Colonel Miller, about the various pumps and engines and pieces of equipment at 21st Street similar to those concerning which I have asked you about at 99th Street, would your
23297 answers be invariably the same?

A. Substantially, yes.

Q. Are there any pieces of equipment there that you recall that you would treat differently because of some particular condition or circumstance surrounding the way in which they are being maintained?

A. Not so far as I can recollect.

Q. If I were to ask you questions about the 21st Street station and its buildings and pieces of equipment with respect to how far you examined them and how far you went into records of the company, the manufacturing book, statement of repairs made from time to time, the time when they were erected and
23298 all that, your answers would be practically the same as they have been with regard to 99th Street?

A. Yes.

Q. And the same would obtain with regard to 14th Street?

A. Yes.

Q. Except it is an older plant?

A. I do not know that it is.

Q. Well, you consider the 14th Street and 42nd Street—I see they have taken up about $140,000 out of this $322,000 odd that you have assigned as the amount should be spent to make them new?

The Master: He did not say to make them new. He said to make them as good as new.

Mr. O'Brien: Well, we will assume.

Q. Are we to assume that they are the two plants that need a whole lot of attention, comparatively speaking?

A. Well, it is more expensive to maintain a coal gas plant than it is to maintain a water gas plant.

Q. You mean to keep it idle?

A. No, I do not mean to keep it idle. None of the repairs on that plant are due to its being idle. They are due to its use, not disuse. 23300

Q. You mean that the tooth of time does not work more ravenously on an idle plant than it does on one that is in active use?

The Master: I think he has covered that.

Mr. O'Brien: Exception.

Q. Do you recall the roofs of the buildings of the coal sheds there?

The Master: It is not allowed.

Mr. O'Brien: Exception.

Mr. Chambers: If the Master please, it is very important that we have some kind of a conference sometime this afternoon between Mr. Maltbie, Mr. Burr, Mr. O'Brien, Mr. Clark and 23301 myself on a very important phase of the defense.

The Master: I have had all my conferences set after four o'clock this afternoon, and that is what you will have to do. All my conferences this week are after four o'clock in the afternoon.

Mr. Chambers: You will stop, then, at four o'clock?

The Master: Yes.

Q. You have added in the property at 132nd Street and Locust Avenue, the building that is over the tunnel. Was it told to you that that was part of the complainant's property?

A. In the first place I have not added it in; in the second place it was told me that it belonged to the New Amsterdam Gas Company or the East River Gas Company.

Q. What do you mean by the brick head house on page 45 of Exhibit 377?

A. That is listed here. It does not belong to the Consolidated Company, and there was no maintenance on it.

The Master: Why did you put it in this exhibit?

23303 The Witness: That is an error, sir.

The Master: What?

The Witness: It is an error, sir.

Q. Would you say the same of what you call the brick test office?

A. No. That applies only to that brick head house, because to the best of my understanding it is not owned by the company.

Q. Where is there a sheet iron automobile shed on that site?

A. To the best of my recollection it is near the gate, on the right of the gate as you enter.

Q. You are not sure, are you, whether that is the

23304 property of the complainant?

A. I was told that it was. No, I am not sure that any of this is. I have no—

Q. You have taken some one's word for it?

The Master: Do you know whether the 42nd Street plant was the property of the complainant company?

The Witness: I could not swear to it, no.

The Master: Of course he does not know.

Mr. O'Brien: Well, I am trying to identify something here that belongs to the complainant. If it belongs to some contractors who did some work on that site, we ought to know it.

The Master: But this witness cannot know that. I would not take his testimony if he said so; he is in no position to tell us.

Q. Do you know where the storage sheds of wood are?

A. My recollection is in two places. They are shown on the print.

Q. Never mind the print; I am trying to find out if you know anything about these things.

The Master: He has no recollection.

Q. How much time did you spend in Baltimore the last two months? 23306

The Master: Not allowed.

Mr. O'Brien: Exception. Your Honor must pardon me if I seem indignant at times, but my feelings do rebel against—

The Master: You need not get unnecessarily excited.

Mr. O'Brien (continuing): Having an exhibit handed in to us—

The Master: I think you get unnecessarily excited.

Mr. O'Brien: I do not get excited.

The Master: Yes, you do; unnecessarily, at times. 23307

Mr. O'Brien: I have control of my feelings. But I cannot help getting indignant when I see them put in here and call a hen coop, about 4 by 5, a building.

Q. Turn to 17th Street, Colonel, the 17th Street station. Why did you call the building marked "S" one office building 9 feet 4 by 14 feet 8?

The Master: I do not care what he calls a shed 9 feet 4 by 14 feet 8. Next question; that is not allowed.

Mr. O'Brien: Exception.

23308 Alten S. Miller, Cross.

Q. Do you know whether that is brick or wood?

The Master: I do not care. Not allowed.

Mr. O'Brien: Exception.

The Master: It is not in my opinion useful to this record.

Q Will you tell us, Colonel, where your men got the prices for labor and the prices for material entering into the work that you have described in Exhibit 377?

A. The labor is the price being paid by the company for the men doing this class of work, except where I
23309 figured on using an outside contractor, as in the case of certain work which the company does not do. For instance, in the case of building this holder, in the case of repairs to certain scrubbers at 14th Street, in case of some other kinds of work, I figured at what the Bartlett-Hayward Company would do it.

Q. (Interposing.) Well, where you—

A. Let me finish it, please (continuing). In that case I used the labor that was being paid by the Bartlett-Hayward Company; in other cases I used the labor that was in the plants—that is, doing this class of work.

The Master: The question contemplated and
23310 included where you got the price for materials.

The Witness: The prices for material, that would be furnished by the Bartlett-Hayward Company, and are the prices that are being paid by the Bartlett-Hayward Company.

The Master: You charge it that way?

The Witness: Well, really the items in this—the detail of the Bartlett-Hayward Company are included in this column of 130 or 140 pages. The detail is included, so really the prices are there. The detail used in the Consolidated plants—I mean that would be done by the Consolidated

men—I got the prices from the purchasing agent of the Consolidated Company and checked them by my own experience.

Q. What did you bring these men from the Fuller Construction Company to your employ for, to supply the information that you needed on building construction?

A. I did not bring any men from the Fuller Construction Company to my employ.

Q. Well, you know what I mean. The men recommended to you by the Fuller Construction Company —this fellow that lives in Lawrence and the other 23312
one. Why did you take them into your employ?

A. Because I needed additional help; I could not do it all myself.

Q. Did you take them into your employ to get the prices on building construction?

A. No.

Q. Did they supply to you the prices on building construction?

A. No.

Q. Where did you get the prices on building construction?

A. I have already told you.

Q. Take a concrete case, the repairs to buildings at 23313
any one of the plants, work done by the company through contractors, not by their own men; where did you get the prices for that?

A. I do not recollect any place where work on a building or repairs of any of these buildings would be done through a contractor. The company has a regular force, regularly repairing things and doing all the classes of repairs I have in this estimate, and going over it continually, and I would expect to do the work with those men.

23314 Alten S. Miller, Cross.

Q. Do you know whether the painting of the holders is done by their employes?

A. Yes.

Q. The Kingsbridge holder was painted by their employes and not by contractors?

A. I do not know whether it was or not, but I presume—

Q. (Interposing.) Well, you have answered yes, haven't you?

A. They do regularly paint their holders; whether they happened to paint the Kingsbridge holder I am not sure. But they do regularly paint their holders.

23315 Q. What was the information given to you by Mr. Carter or any other man in the company's employ as to the price paid to painters in 1919 and 1914? You must refer to some notes again?

A. I do not attempt to recollect the rates of wages of all different kinds of mechanics and laborers and so forth.

Q. But you are handling that stuff every day of every year?

A. And a great many other things. My memory is limited in capacity. The painters were paid in varying amounts at the different plants, from $3.60 to $4.85, in 1919.

23316 Q. Where did you get that information?

A. I got it from the—the information from each plant, from the superintendent of that plant, and from the construction department, from Mr. Hunter in charge of the construction department in Mr Morris' absence.

Q. Was it a written communication?

A. It was not.

Q. He whispered that to you?

A. No, he did not whisper it. He said it openly, outwardly, in an honest straightforward way.

Q. You say you got some information from superintendents?

A. I got the information regarding the wages at each plant from the superintendent at the plant.

Q. Do they pay the painters of holders?

A. In some—I do not know whether they paid the painters of holders or not; I do not recollect. I think not.

Q. Did you get any information from Mr. DeCastro as to the amount paid to painters on the 111th Street holder?

A. I think, I am not quite sure, that the 111th 23318
Street holder was painted by DeCastro's men or the Construction Department men; I do not recollect at the moment.

Q. Then you do not know whether the price was different in one case than it was in the other?

A. The price is all shown in the detail of the estimate.

Q. Was it a different price for the outside contractor than it was for the men working for the company?

A. It is not figured on any outside contractor.

Q. Did Mr. DeCastro tell you anything of the details of the painting of the Kingsbridge holder? 23319

A. He did not. I did not ask him.

Q. What did Mr. Hunter tell you?

A. He told me that the rates for laborers were $3.55, the rates for riggers $3.85—that is those employed by the Construction Division; the rates for carpenters $4.85, the rates for painters $4.85, the rates for ordinary mechanics $4; the rates for ordinary repairmen $3.85, and the rates of millwrights $4.50 to $4.75.

Q. Are you speaking about repairs to holders now?

A. No, I am speaking about what Mr. Hunter told me.

Q. I was asking you about painting just this minute?

A. You were asking me what Mr. Hunter told me, and I was giving it to you.

Q. He gave you that list?

A. He gave me this list.

Q. You said a minute ago that he gave you it orally?

A. He gave me that list orally and I wrote it down.

Q. You wrote it down?

A. Yes.

23321 Q. Is that your handwriting there?

A. No, it is not my handwriting.

Q. Whose is it?

A. I think it is Mr. Graham's, I am not sure. I had him copy it up.

Q. Copy it up from what?

A. From my memorandum, that I made when Mr. Hunter gave me the rates.

Q. Did Mr. Hunter give you the rates also for 1914?

A. No. He gave me in a general way that the rates in 1914 were about fifty per cent.

Q. That applied to all classes?

23322 A. Practically. Practically, not exactly.

Q. Did he say to you specifically that these were the rates that they paid their men in this year?

A. Yes—that they are now paying.

Q. He did not bring you the pay rolls?

A. He did not.

Q. You did not talk to Mr. Gawtry about this matter?

A. I did not.

Q. You did not talk to Mr. Carter about it?

A. I talked only to Mr. Hunter and the plant superintendents.

Q. Then you have not any information for your 1914 prices, except the general statement that they were fifty per cent less than the 1919?

A. Yes, in the plant superintendent's—I have some figures for 1914 which are shown in this volume of details. I do not have them listed up here. I was particularly interested in the 1919 and had them listed up. 1914 is shown in the volume of details.

Q. I do not understand that. What do you mean, that Mr. Hunter gave you some specific figures?

A. I said that Mr. Hunter did not give me any figures for 1914, but the plant superintendents did 23324
for their detail, and those are shown in this list, this detail.

Q. Did the plant superintendents hand you a written list?

A. They did not.

Q. You just made notes as they talked?

A. I made notes and had the originals—no, I did not, either. Yes, I made notes and put them into that volume.

Q. Have you got your notes here?

A. No.

Q. Where are they?

A. Destroyed. 23325

Q. Why did you destroy them?

A. I had no further use for them after they were once copied. They were merely memoranda and of no permanent value.

Q. You knew you were going to testify here?

A. Yes.

Q. You knew I was in the case?

A. Yes.

Q. You knew that when you were on the stand in the Kings County case I endeavored to get your notes, did you not?

A. Yes.

Q. And you knew I succeeded in some instances in getting them?

A. Oh, I gave you a great many notes, yes, but I have given you a great many in this case. I have given you a whole volume of them.

Q. Have you got any notes here at all that were made by you?

A. I do not know whether I have or not.

Q. Will you look through and see?

Mr. Ransom: Objected to. It is quite immaterial and not within the scope of any proper

23327 cross-examination.

Mr. O'Brien: We have got evidence in here on prices of labor, and it is purely hearsay.

A. Yes, here is a note I have made by me.

Q. At what time?

A. Within the last two or three days.

Q. On the occasion of a visit to the plant?

A. No, on the occasion of the examination of the company's exhibits in this case.

Q. Are those all the notes you brought here?

A. I do not remember whether I have any more notes or not. I may have some.

Q. Will you not see whether you have any notes

23328 that bear upon the question on which I am examining you now?

Mr. Ransom: Objected to as immaterial.

Mr. O'Brien: I am trying to find out whether the witness is flippant with me and the Court.

A. You mean original notes now, in my handwriting? Is that what you mean?

Q. You have been looking at your papers for some time.

A. I have asked a question.

Q. I am asking you if you have got here any papers, any notes of any kind made by you personally

on these questions concerning which I am examining you?

A. Well, this whole volume contains notes made by me personally, but they are not in my handwriting. Practically every other typewritten or other memorandum that relates to this subject was made by me. But I do not find any notes.

Q. I do not ask for facility now. Go ahead and find your notes if you have them, Colonel, and give me the answer.

A. I do not find any notes specifically relating to the painting of holders in my handwriting. 23330

Q. Listen, Colonel; do not try to evade the question.

A. I am not trying to evade the question.

Q. I did not confine the question to the painting of holders. I am asking you now whether you have in court any notes personally made by you with respect to any subject concerning which I have examined you?

The Master: In your own handwriting.

Mr. O'Brien: In your own handwriting.

The Master: Look through your notes and if you have it, say so, if you have not, say so.

A. Yes, a note which may have some indirect bearing upon the prices of material at various periods. 23331

Q. Is that in your handwriting?

A. There are a great many notes in my handwriting on here, yes; it is not complete.

Q. What does it bear upon?

A. Labor and the price of material.

The Master: Everything that bears upon the subject.

The Witness: Here are some notes on the prices of labor in 1906.

The Master: In your own handwriting?

The Witness: Yes, sir. Here are additional notes on the prices of material on a subcontract basis, in 1914 and 1916.

The Master: That is in your own handwriting?

The Witness: In my own handwriting, sir. Here is a note—this relates to painting, too—of the prices paid by the Construction Department for labor.

Q. In your handwriting?

A. In my handwriting; a note I made. I did not
23333 remember that I had it; I thought I destroyed it.

Mr. Ransom: You had some other notes there on a small piece of paper.

Mr. O'Brien: Do you know what is in his pocket?

Mr. Ransom: I saw him produce it a moment ago.

The Master: That is enough now.

Mr. O'Brien: I will ask that they be marked for identification, your Honor.

The Witness: I would like to get them back, because—

The Master: You will get them back.

23334 Mr. O'Brien: May I look at these?

The Master: At the risk of having them marked in evidence, yes.

Mr. O'Brien: I want to give them some title, your Honor.

The Master: I do not care what title you give them.

Mr. O'Brien: If you will tell the stenographer how to entitle them I will ask that they be marked for identification.

The Master: Mr. Miller can entitle them again. What is that (handing witness paper)?

The Witness: This is an estimate of the value of all the property of this company.

Marked Defendants' Exhibit AA-27 for identification.

The Master: What is that (handing witness paper)?

The Witness: That is the rates of pay of the Construction Department of the Consolidated Company.

Marked Defendants' Exhibit AA-28 for identification.

Q. All in your handwriting? 23336

A. All in my handwriting.

The Master: What is that (handing witness paper)?

The Witness: That is an item of the unit cost of new construction on a subcontract basis.

Marked Defendants' Exhibit AA-29 for identification.

Q. Does that relate to a particular branch of the Exhibit 377?

A. No, that does not relate to Exhibit 377. That relates to my testimony that the cost of this class of property is about double what it was four or five years ago. 23337

The Master: What is this paper headed, "Prices, 1906"?

The Witness: Those are the prices paid by the Bartlett-Hayward Company for the class of labor specified in detail on the sheet.

Marked Defendants' Exhibit AA-30 for identification.

The Master: This paper headed, "Prices of Material" is partly in typewriting and partly in your handwriting?

The Witness: Yes, and that relates to prices

of various classes of labor at various periods, and the periods are shown. It is partly in my own handwriting.

Marked Defendants' Exhibit AA-31 for identification.

Q. Then you have given us now all of the notes personally made by you?

A. No.

The Master: That he happens to have with him.

Mr. O'Brien: That he has brought into court,

23339 yes.

The Master: That he has with him in court. Were you asked to bring your original notes, Colonel Miller?

The Witness: No.

The Master: Next question.

Q. In every respect are the prices for labor used by you in connection with Exhibit 377 in 1914 fifty per cent of the prices that you used in your calculations for that portion of the exhibit relating to 1919?

A. I have already testified that the prices at the plants are shown in that book and that they are not

23340 fifty per cent. They are shown in the book of details clearly—what the rates were in 1914 and 1919. In the construction, wherever I have used the Construction Department prices, I have used to the best of my recollection fifty per cent. I am not quite sure of that.

Q. You say they are not fifty per cent in 1914 where you get the information from the superintendents?

A. No, not always fifty per cent in 1914—

Q. (Interposing.) May be more or less?

A. (Continuing.) For the men permanently con-

nected with the plant. In some cases I think they are more, slightly more; but they are shown, clearly set forth in this detail.

Q. Do you know what painters were getting generally in New York in 1914?

A. I have the data here. I can tell you (examines paper). I do not know.

Q. I am asking you now. Anybody could come in here with copies of notes that some one hands him and get on the stand and testify, but you are supposed to be an expert and I want your view.

A. Even the memory of experts is limited, and I 23342
do not pretend—

Q. (Interposing.) Do you mean to tell me—

A. Just let me finish my answer. I do not pretend to remember the detail of every class of mechanics or labor over a series of years.

Q. Can you tell me what a gas laborer got in 1914 in New York?

A. I think about $1.80, but I am not even sure of that. I think it is $1.80.

Q. Do you know whether the complainant does not use laborers that are doing painting around the works?

A. They use a mechanic that is somewhat better 23343
than a laborer—it is not a very high type of man—for doing the works painting.

Q. You have not contemplated in any part of this Exhibit *377* the painting of a holder, have you?

A. I think you will find it so specified there, that I have.

Q. In what place?

A. In the places listed.

Q. Can you not tell us that without referring to the books?

A. No.

23344 Alten S. Miller, Cross.

Q. You cannot say after a recent visit to the plants of the company whether or not there is one or several holders that ought to be entirely painted to make them live forever?

A. I have not made any such statement.

Q. At any time?

A. At any time.

The Master: I will not allow that.

Q. Well, as good as new?

The Master: I will not allow the question. I think you are starting all over again.

23345 Mr. O'Brien: Well, I am coming back; I am trying to find out the witness's idea and knowledge.

The Master: The question is not allowed.

Q. Where did you get your prices of material that enter into painting?

A. I have already specified—

Q. As of 1914?

A. I have already specified. I got them from the purchasing agent of the Consolidated Gas Company.

Q. Then you did not inquire as to the prices in the open market in New York as of 1914?

A. I have a good deal of data on the subject, and
23346 cross-checked it with my other data.

Q. What data had you on the subject?

A. I have a good deal of data as to the cost of building plants of this type in this neighborhood in 1914.

Q. Where did you get it?

A. I got it from—I made it up.

Q. Where did you get it from to make it up?

A. Where did I get it? I got it from investigations of market conditions.

Q. You sent Mr. Graham, did you, to the Fuller Construction Company?

A. No, I did not.

Q. To Mr. Deeves, and the other men, to ask them what they paid for this and that kind of labor and this and that kind of material?

A. I did not.

Q. Well, now, tell me how you did collate this data?

A. In the first place, the Bartlett-Hayward Company is a very large purchaser of materials of this kind. I went to the records of the Bartlett-Hayward Company—

Q. What did you—

A. Excuse me now, let me finish. I went to the 23348
records of the Bartlett-Hayward Company and looked up to see what they were paying for materials of these kinds. I had full access to the records of the Consolidated Gas Company, to see what they were paying for materials of these kinds.

Q. You have had—

The Master: Let him finish his answer.

Mr. O'Brien: If he is going to go on all day, you know, I will never get a chance to take up these in turn, your Honor.

The Master: Stop.

A. I got in touch with contractors, general contractors, to see what they were paying for materials 23349
of this kind.

Mr. O'Brien: That is what I want now.

A. (Continued.) I got in touch with the sellers of such materials to find out what they were paying for materials of this kind, but this was not done in connection with this case, I had all of that data before I started here to check up these repairs.

Q. Well, who were the contractors you got in touch with?

A. I got in touch with Deeves.

Q. He is now dead?

A. Unfortunately, yes.

Q. Yes.

A. But I did not get in touch with him because I thought he would be dead. I got in touch with—

Q. You got in touch with him because he was familiar with the work, doing work for the gas companies, did you not?

A. I got in touch with him because he was doing work for the Bartlett-Hayward Company.

Q. Well, between the Bartlett-Hayward Company and the Consolidated Gas Company, your activities in the searching for prices did not go very far, did

23351 they?

Mr. Ransom: I object to that question. Counsel keeps a running unfair comment with persistent misrepresentation.

The Master: Question allowed.

Mr. O'Brien: I want the witness to tell us everything he has on his mind. Now come along, Mr. Miller; tell us whom you went to besides Richard Deeves, or J. Henry Deeves?

The Witness: Just read that other question, please?

Q. (Question read.) "Well, between the Bartlett-Hayward Company and the Consolidated Gas Com-

23352 pany your activities in the searching for prices did not go very far, did they?"

A. They went to very great length, and in a case tried by you you did not challenge any price of that kind that I put in.

Q. You are sure of that?

A. I am quite sure of it.

Q. Well, you had better read the record, Colonel.

A. All right.

Mr. O'Brien: Do not get in any side play, because you are a witness here.

The Master: That is enough.

Mr. O'Brien: And I am examining counsel.

The Master: That is enough, Mr. O'Brien. Next question.

Mr. O'Brien: Well, I hope your Honor will caution the witness that he is not a Colonel here; he starts to dictate to me.

The Master: He will not dictate to you or to anybody.

Mr. O'Brien: I am asking him where he went now.

The Master: Just answer questions.

Q. Who were the other contractors besides Deeves, 23354
that you got any prices for labor or materials from, for either the period 1919 or 1914? Cover both periods, and give us the answer all at once?

A. This was all done quite some time ago, and I do not recollect. I went to a great number of dealers and contractors, and I cannot recollect at this moment how many I went to.

Q. No, give us the names?

A. The prices are all set forth in this exhibit, and if there is any question about that you can take them up; but they are very clear.

Q. I am asking now to whom you went besides Mr. Deeves for prices for labor and material, if you re- 23355
member?

A. I have stated that I went to a good many people, to several dealers. I do not recall at the moment just how far I went; it all happened quite some time ago.

Q. How long ago?

A. It was in preparation for the Kings County case for one thing, and the 1919 prices were checked up in January and February.

Q. Well, there you testified you went to the Fuller Construction Company and Mr. Deeves. You did not include anybody else?

A. I think that is not a fact.

Q. Well, if I am to be corrected, is there anybody else?

A. I have stated I went to a number of different dealers.

Q. You stated that you sent Mr. Graham, your man—

The Master: Let the witness answer the question.

The Witness: Let us have the record.

The Master: Let the witness answer the question, and if you challenge his statement get the record as quick as you can and find out.

23357

Mr. O'Brien: I did not want to take up a whole lot of time. I am trying to get through this.

The Master: Then pass it up.

Q. Is it a fact that you do not remember now the names of any of the other contractors that you went to to get the prices of labor and materials, some time ago?

A. I do not at the moment recollect anybody but the two contractors. I may have been to several others. I went to a number of dealers, and to my own records.

23358

Q. To what dealers did you go?

A. I do not recollect.

Q. Were they New York dealers?

A. Yes.

Q. For what did you go to them?

A. To get the prices of materials and equipment.

Q. What particular material did you consult dealers about?

A. I consulted them about brick—

Q. Where did you get your prices of brick?

A. Prices of brick I used here I got from the Consolidated Gas Company records.

Q. What particular records?

A. Records that keep the price of that kind of material.

Q. That is evasive. I have asked you what records you went to?

A. To the purchasing agent, given to me by the purchasing agent himself.

Q. What did he give you, a record, or did he tell you something from a record?

A. He gave me the price.

Q. Orally?

A. Yes. 23360

Q. You wrote it down?

A. Yes.

The Master: Now we are going all around in a circle again, a merry-go-round.

Mr. O'Brien: Your Honor, I am trying to get some information from an unwilling witness.

The Master: You are getting right back to the same point, and starting around the circle.

Mr. O'Brien: I am on something concrete. I asked him what dealers he went to, and he said a good many dealers. I asked him who they were, and he said he got them from the Consolidated Gas Company. 23361

The Master: Don't you suppose I am sitting here and listening to what was said? You don't have to tell me what was said.

Q. Do you recall any dealers that you actually went to yourself in search of prices of materials as of 1914 and 1919?

A. I did not get of these prices from dealers in here.

Q. What do you mean by "in here"?

A. In this statement which I have given you, of 133 pages of detail. These are the prices paid by the

23362 Alten S. Miller, Cross.

Consolidated Gas Company except insofar as they relate to materials to be furnished by the Bartlett-Hayward Company, and they are the prices for which the Bartlett-Hayward Company will sell this material. If I recall correctly the detail estimate of the Bartlett-Hayward Company is given, and the prices they are paying for the material is given.

Q. We may sum it up by saying that so far as prices of materials are concerned, you took the prices from the Consolidated Gas Company, or where they did not furnish you the information you took them
23363 from the Bartlett-Hayward Company, of which you are vice president?

The Master: The question is not allowed.

Mr. O'Brien: I thought it summed it up.

The Master: I will sum it up myself.

Mr. O'Brien: I will note an exception and put another question to the witness on that matter.

Q. Colonel Miller, is there any branch of the underlying data that you used in getting up Exhibit 377 that you took from sources other than the Consolidated Gas Company and the Bartlett-Hayward Company?

The Master: The question is not allowed.
23364 The witness has fully told us. The record is complete on that subject.

Mr. O'Brien: Exception.

Q. You have not, on your supplemental data turned over to the defendants, set forth the unit prices of labor as of 1914, have you?

A. Not specifically, but the number of days of work and the total amount are shown, so they are easily figured.

Q. You have just set down the unit prices for 1919?

The Master: The question is not allowed.

The witness has already stated that if you make the computation you have the unit prices for 1914.

Q. Take page 13, this condenser house F. I. to point up and repair brick work, mason and helper, five days, at $8.35 a day. That $8.35 means 1919 price, does it?

A. Correct.

Q. And it includes both the mason and the helper?

A. Correct.

Q. Now, what is your price for the mason and helper in 1913? 23366

A. Five into thirty goes six times—$6.00.

Q. How much for the mason and how much for the helper?

A. I don't recollect.

Q. Have you any data with you, made by you, that would help you?

A. No.

Q. What are the materials that you have set down here as costing $4 in 1913 and $6 in 1919?

A. Cement and sand.

Q. You don't give any figures as to the quantity?

A. No.

Q. Is that to be guessed at, too? 23367

A. No, it can be figured back. On a repair job of this kind the quantity of material is pretty small.

Q. What would you say it would be under these specifications?

A. I should say it would be about a barrel of cement and a yard of sand, in round figures.

Q. Are you figuring that now for the first time?

A. No.

Q. Did you count on a yard of cement and a bag of sand when you put down $4 for 1913 and $6 for 1919?

A. I don't remember thinking of a yard of cement or a bag of sand.

Q. Well, whatever the quantity is, did you have that in mind specifically when you set down $4 for 1913 and $6 for 1919?

A. No.

Q. You just lumped it, didn't you?

A. I looked at the wall and figured in my mind about how much it would take to point up that wall, and looked it over and figured about $6 for material, it would keep a man busy pointing for that length
23369 of time. It is a very small amount of material.

Q. Where did you get your prices for roofer and helper?

A. That is a contract price. I figured that they would have to go outside to get men for that work.

Q. Is the contractor's profit figured in?

A. Yes.

Q. How much?

A. Ten per cent—wait a minute—no, there isn't any contractor's profit in that. I figured that the company would go out and hire a roofer, not have any general contractor.

Q. How did you arrive at $26, and $36 in 1919?

23370 A. That is about the proportion, that is the proportion of wages between 1913 and 1919 for roofers.

Q. What was your price for roofers in 1914?

A. $8.50 a day for a roofer and helper.

Q. What time?

A. 1914, December 31, 1913.

Q. You got that from what notes?

A. I just figured it this moment from the exhibit —not from the exhibit rather, but from the book which you have before you.

Q. Have you any data on that?

A. No.

Q. In your own handwriting?

A. No.

Q. Furnished by whom?

A. Furnished by—I don't remember the body, a body here representing the associated trade giving rates for construction that were being paid.

Q. Did Mr. Hunter or somebody connected with the company tell you how much they were paying for this kind of work?

A. No.

Q. Is this a class of work that they have never had done? 23372

A. Only in a limited degree; I figured on doing this without side labor.

Q. What did Hunter tell you about it?

A. Hunter told me to figure without side labor, that on this kind of work they did not do very much with their own men.

Q. Can you tell me at this time by referring to any notes that you have, just what classes of labor you took from outside sources?

A. To the best of my recollection this roofing work, and the work done by the Bartlett-Hayward Company would be the only outside work.

Q. The carpenter prices you took from Mr. Hunter? 23373

A. Yes, not only from Mr. Hunter, I took from the five sources already mentioned, that is, from the different works and the construction division.

Q. Does the painting of steel parts of holders, the framework of holders, cost more money than ordinary painting?

A. Not per square, no.

Q. Where did you get your prices of lumber from?

The Master: I won't allow the question.

Mr. O'Brien: Exception.

Q. In 42nd Street and 14th Street, in the matter of repairs to benches and retorts, you took the prices from Bartlett-Hayward, did you?

The Master: No, I will not allow that. I think I will have to limit the cross-examination.

Mr. O'Brien: I am going over that in a general way.

The Master: No, I think you have had the fullest opportunity for cross-examination, and I do not see any necessity for going over it, as you say, in a general way, now. I think I will

23375 give Major Clark a chance.

Mr. O'Brien: I thought I would take up the several classes of labor, I mean the classes of equipment at 14th Street and 42nd Street, and find if they were all substantially Bartlett-Hayward figures. That would need only a few questions.

The Witness: The form of estimate will show which are our figures.

The Master: I will let you ask a few questions, but I have got to stop this. Go on and ask him what you told just told me you wanted to ask him.

23376 Q. Where you have set forth on Exhibit 377 costs of repairs to pieces of equipment in the several works are they taken from the Bartlett-Hayward prices, generally speaking?

A. I have already testified that most of this repair work would be done by the company's own employees, and in that case I have used the company's figures.

The Master: The part coming from the Bartlett-Hayward Company would be on your prices?

The Witness: Yes, and this paper that I have shown you pretty clearly shows the difference between the Bartlett-Hayward estimates and the others.

The Master: I think you are through, Mr. O'Brien.

Q. Where did you get the prices of horses?

The Master: Not allowed. We will get to mules next, and then we will get to nanny goats, or something else.

Mr. O'Brien: Exception. I feel it necessary to go into the details of this matter, for the reason that I am suspicious, and have a right to be suspicious, that all this stuff was collated not to come in here and shown primarily that there has not been any depreciation in the plant, but 23378 to surreptitiously get into the record prices of labor and material that are not given by the other witnesses in this case, in the hope that we would not cross-examine and go into details on it, and would be on the record and uncontradicted.

The Master: My ruling is that you have had a sufficient cross-examination for all practical purposes. I will hear from Major Clark.

Mr. O'Brien: Your Honor then declines to allow me to go into further details as to particular prices for particular kinds of labor?

The Master: Yes.

Mr. O'Brien: The variations in the price of 23379 pig iron and steel, sheet iron?

The Master: Yes.

Mr. O'Brien: Variations in the prices of linseed oil, various kinds of paint and other materials?

The Master: Yes. Major Clark, have you any questions?

Mr. O'Brien: I note an exception to your Honor's ruling and state that if unrestrained I propose to cross-examine the witness as to the various details that are underlying his lump fig-

ure set forth for repairs to the various pieces of equipment and to buildings set forth in Exhibit 377.

The Master: Mr. Clark, have you anything to ask?

Mr. Clark: Yes, sir.

CROSS-EXAMINATION BY MR. CLARK:

Q. Col. Miller, how many times have you testified along the lines that you have testified in this case, to depreciation of property?

A. I do not at the moment recollect appraising the
23381 depreciation or the amount necessary to put the plant in condition when new in any other case.

Q. Well, when did you first come to the opinion that gas properties do not depreciate?

A. I have had that practically ever since I have been connected with the gas business; that has been my experience.

Q. Well, is that founded on your experience alone, or is it founded upon scientific research?

A. It is founded upon most ordinary practical experience.

Q. And your experience does not cover the length of life of the ordinary instrumentalities used in the
23382 gas-making business, does it?

A. Well, I have operated a good many plants and there is no ordinary life to such apparatus, so far as I know. I do not know what an ordinary life would be. Let me correct the statement I made here a minute ago. I did appraise the amount in a condemnation case necessary to put the property in the condition in which it was when new. That was one case that I recollect.

Q. How long ago was that?

A. That was five or six years ago.

Q. Did you ever go into the condition of properties

that were put up at the beginning of the gas business in this country? A. Yes, I have.

Q. Have you ever gone into it thoroughly with a view to sustaining your theory of the indefinite life of gas properties?

A. I have not gone into it with any such view, but I have been connected—I was connected for a number of years with the first gas company established in this country.

Q. What company was that?

A. That is the Consolidated Gas Company of Baltimore. 23384

Q. What year did that company start operations?

A. In 1818.

Q. Is there any of the property of that company which they used in 1818 still in operation?

A. I could not definitely say whether there was or not. I believe that some of the pipe was.

A. A great majority of the property of that plant was built subsequent to the original time?

A. Yes. The site of the original plant was right in the business centre of the city.

Q. It was moved away from there?

A. Yes.

Q. Well, could you find out, or did you attempt to find out what had become of the original plant of that company? 23385

A. No, I did not think it was necessary. I have no doubt it was junked.

Q. You have no doubt it was junked?

A. Not the slightest.

Q. Well, did you attempt to find out why it was junked?

A. I knew why it was junked.

Q. Why was it junked?

A. Because the plant was on a very small site in the

business centre of the town, and it was cheaper to go elsewhere and put up a new plant and junk the old plant than it would have been to have bought enough property at that point to have made it a great plant with the risk of having it a nuisance in the location.

Q. And that plant was junked on account of obsolescence and inadequacy?

A. I would not say obsolesence. It was inadequacy in that case, from the best of the information furnished me. Needless to say, I have no personal knowledge of it; this is simply the information given me.

23387 Q. But you have never tried to look into it in connection with your theory of the indefinite life of gas plants?

A. This is not a theory; this is just my experience.

Q. But your experience is not indefinite, is it?

A. No, my life is limited.

Q. Your life has been limited somewhat?

A. Yes.

Q. So that the only way you could get at the indefiniteness of the life of property would be to inquire into its past history, is that correct?

A. Inquire into the past history as exhibited by the apparatus itself, and knowing how long the apparatus has been used.

23388 Q. Take your Baltimore gas plant. That was a coal gas plant, I assume, was it?

A. I take it so, as it was far previous to the invention of water gas.

Q. Well, is there nothing in this coal gas plant that could have been used in the new plant that was erected?

A. I imagine not. It was a little toy plant with about, I should judge, about a forty or fifty thousand foot holder, from the size of the old pit, which still remains.

Q. When did it move out to its present site?

A. I don't know. It was sometime in the fifties or sixties, I imagine.

Q. And of the plant that was put up in the 50's or 60's, how much of that remains today?

A. Very little, I think.

Q. And did you inquire into the reasons for the retirement of the apparatus of that plant?

A. I did not have to inquire. I retired quite a good deal of that plant.

Q. And why was it retired?

A. It was on account of inadequacy and change in the art. 23390

Q. And in no case was it on account of the property wearing out?

A. No, not in any case so far as I know. Certainly not in the case of any of the material that I retired.

Q. Did you ever inquire into the history of any other company in this country

A. Not particularly, no.

Q. To ascertain whether the property had ever been retired because it wore out?

A. Yes. That is a matter I have discussed with many engineers.

Q. And what was your conclusion?

A. My conclusion was that property is not retired in 23391 any large units because it wears out.

Q. It was always on the ground of inadequacy?

A. No, I would not say that.

The Master: Change in the art?

The Witness: Inadequacy or change in the art, or possibly neglect. I have known cases where it is changed for neglect, and I have known of small pieces being broken up.

Q. Property retired from neglect wears out, doesn't it?

A. Well, not necessarily.

Q. Well, what happens to it?

A. Sometimes it rusts out, if it is a steel structure; if it is a masonry structure, it may be damaged by the elements; if it is wood it may decay. A great many reasons.

Q. Well, they wear out in one form or another, don't they, by reason of neglect? They decay because of the neglect, rather than wear out?

A. Yes, they decay, but in running machinery, they wear out, due to neglect.

Q. So that you did find some cases where properties
23393 had worn out?

A. No, I do not know of any case where they actually wore out, no.

Q. Well, you say that you found some cases where there had been neglect of properties that had been retired, regardless of inadequacy or obsolesence or change in the art?

A. Yes.

Q. How did you know there was any neglect that caused this retirement?

A. Because of the condition of the property.

Q. Did you inquire into what kind of treatment the property had had?

23394 A. No; it was perfectly apparent.

Q. Wherever a property was worn out, it was apparent to you that there had been neglect?

A. As I say, I do not remember any property wearing out. I have seen it decay from lack of care.

Q. Well, where property has decayed, you assumed that it was from lack of care?

A. I knew in the cases which I examined that it was from lack of care.

Q. Did your investigations go to the extent of bringing you to the conclusion that the property never could wear out except by neglect?

A. Property can wear out and does wear out, but if the parts that are worn are replaced, it is then made good. Everything probably has some wear, that is, every piece of running machinery.

Q. What do you call neglect?

A. I call neglect when steel is allowed to rust by reason of not painting.

The Master: I will have to interrupt the witness. I think he has already told us what he means by neglect—failure to oil machines, failure to keep bearings oiled, failure to keep walls painted, failure to keep ironwork painted. I 23396
would like to ask the witness, so as to clear my mind: Take a gas plant that cost a million dollars to build twenty years ago, and assume as you have, that from time to time parts wear and are replaced, painting is done and repairs are made and parts are replaced, and that goes on for twenty years; at the end of twenty years, you look it over, and you spend another four thousand or five thousand dollars on the lines indicated in your statement, and you say that plant then is as good as it was twenty years ago?

The Witness: Yes.

The Master: Now, would you say that that 23397
plant, assuming no change in the cost of construction, that is that the labor and material would be just the same, that that plant is worth precisely as much as the day it was put up?

The Witness: Yes.

The Master: No depreciation at all?

The Witness: No depreciation; on the contrary, I think it is worth more by reason of the organization of the plant and personnel. That is, no plant—

The Master (interrupting): I am not bother-

ing about the personnel; I am talking about the tangible property, the machinery.

The Witness: Well, take that, sir; there isn't two plants built exactly alike, and I do not think any plant was ever built that did not require or did not show after being operated for a while, that certain changes might be advisable to assist in the economical operation, and to make it easy to operate, and a plant that has been running for a number of years and has found itself, I think has had those things done which will be inevi-

23399 table in any brand new plant, and to that extent therefore I think it is really better than a brand new plant.

Q. Mr. Miller, is not neglect a relative term? For instance, as to a gas holder, a gas holder would be painted perhaps once a year, and in the meantime it is left alone and rust occurs during that year; the neglect that you speak of is in leaving that plant for more than a year. Isn't that neglect a relative term to that extent?

A. It may be a relative term; but using your illustration, if a holder rusts in a year, then it should be painted twice a year.

23400 Q. But iron will rust in any length of time to a certain extent, will it not?

A. No, not if properly painted.

Q. At the end of the year there will be more than one rust spot on the holder, will there not?

A. No, not if properly painted.

Q. Whenever it is found necessary to paint it?

A. It should be painted before there is any rust.

Q. Before there is any rust whatever? A. Yes.

Q. And you would say in the plant of the Consolidated Gas Company there had never been any rust allowed to appear on any of the holders?

23401

A. Nothing to any way reduce the area—the thickness of the metal.

Q. Well, had there ever been any rust?

A. Not as far as I could tell.

Q. And you would say that there never had been?

A. As far as I could see there had not been.

Q. And the same would apply to the girders in the buildings?

A. As far as I could see, the thickness was not reduced by rust.

Q. Could you tell from your investigation whether there had been rust in times past that had been covered 23402
up by paint?

A. I could see that there was no rust that would reduce the thickness of the member.

Q. Any rust will reduce the thickness of a member, will it not?

A. Possibly, in an infinitesimal amount.

Q. Rust acts in an infinitesimal manner, does it not?

A. It depends on what you mean by acting in an infinitesimal manner.

Q. I mean a very gradual eating away of the iron.

A. It is sometimes gradual and sometimes rather rapid. It depends on the conditions to which the iron 23403
is subjected.

Q. What is the thickness of a holder when it is originally put up?

A. The ordinary holders are about a tenth of an inch.

Q. Could you tell by looking at these holders whether there had been rust which reduced them, say, to a twelfth of an inch?

A. Oh, yes. The rust never acts uniformly over a whole sheet or plate.

Q. I understand that.

A. It will act in spots, and if there is any rust to reduce them in thickness you can get the light on it and see where a piece of metal has been reduced, where it has been pitted by rust.

Q. That could not be covered up by paint?

A. The paint will cover it, but it will not fill the hollows. It will cover it, of course.

Q. Do you know any recognized authorities that bear out your theory of making a plant as good as new by superficial repairs?

A. I do not know just what you mean by recog-
23405 nized authority.

Q. Well, in any of the courts of this country.

A. I think in the case of the Buffalo Gas Company that was the theory on which the finding was found, although I am not sure whether that was a court case or not. I think in this particular case, this 80 cent gas case some years ago, I think the same thing was passed on.

Q. You do not mean to say that the Supreme Court of the United States upheld such a theory as that?

A. I am not a lawyer and I am not sure, but my impression is that was upheld in that case.

Q. Your impression is wrong.

23406 Mr. Ransom: Lawyers might disagree on it.

Mr. Chambers: Not on that.

Q. Mr. Miller, take some of the parts of the property up there at the Consolidated Gas plant; for instance, those window screens, those heavy window screens, a great many of those you found rusted, did you not?

A. I found some of them rusted; I would not say a great many.

Q. Well, some you found rusted?

A. Yes.

Q. You did not attempt to repair those screens, did you?

A. In most cases I figured on replacing them entirely. A number of them I figured on replacing.

Q. Putting in a new screen?

A. Yes.

Q. So that property you consider was worn out by reason of the rust?

A. Well, no, many of them had been broken by violence; something had been pushed through them.

Q. Some of them had been worn out by rust considerably, is that so?

A. I do not remember whether any had been worn through by rust. I do not remember any at the mo- 23408
ment.

Q. But they were sufficiently damaged so that you felt they should be replaced by new screens?

A. They were damaged, yes, and I felt they should be replaced.

Q. That was one item of property you felt could not be repaired, was it not?

A. Oh, there are many individual items that cannot be repaired, in any property.

Q. Where does the line come between the property that can not be repaired and must be replaced and the property that can be repaired?

A. Well, take the replacing of screens, that does 23409
not mean the replacing of the building; that is a part of the building, when it gives out it must be replaced The treads on the stair wear out and cannot be repaired; the fire brick and the gas apparatus wear out and cannot be repaired and must be replaced. Sometimes a plate on a generator gives out and must be replaced. There is not any part of this plant that probably will not require from time to time the replacement of some part. There is not any major item.

Q. That is each one of the component parts must be replaced?

A. It depends on what you mean by component parts. Each building does not have to be replaced, each generating machine does not have to be replaced, but parts of buildings and parts of generating machines must be replaced.

Q. Every part of the building sometime or other will have to be replaced, will it not?

A. No, I do not think so. Oh, no.

Q. Every part of a water gas set will have to be replaced at some time?

A. No, I do not think so. Not if properly cared

23411 for.

Q. It has to be relined with fire brick every so often, does it not?

A. I do not know what you mean by every so often.

Q. The testimony here is it will go about 1,600 hours without recheckering it.

A. I did not think they ran as long as 1,600 hours. I thought it was a less time.

Mr. Ransom: A thousand hours.

The Witness: That is my recollection, a thousand hours.

Q. Is there any part of a water gas set that does not have to be replaced at some time?

23412 A. Yes.

Q. What part?

A. All of the shell, the steel shell that does not come in contact with the ashes, and the lining of the carbureter and superheater—that is the lower carbureter and the superheater—would last indefinitely. The checkers have to be replaced after about a thousand hours of operation, and occasionally the lining of the generator—that is, a few feet of the lining of the generator—must be replaced.

Q. But the outside shell will never have to be replaced?

A. No, not if properly maintained.

Q. That is as far as your experience goes?

A. That is as far as my experience goes, and I have had experience with water gas machines since the beginning of—that is, machines that have been in practical use since the beginning of the industry.

Q. How long is that, Mr. Miller?

A. My experience dates back to 1898, and I think the beginning of water gas machines was about the early 70's; so the early machines were still in use when I went into the business.

Mr. Ransom: You mean 1888, instead of 1898.

The Witness: 1888, I should have said. 23414

Q. Are they still in use now?

A. Oh, no. They are all useless. The whole art has changed; it is an entirely different machine.

Q. What is the longest life that you have ever known a water gas generator to have? I mean how long back was the last one put in that is now working, that you remember?

A. The oldest ones that I recall at the moment are the ones put in by me at the East River gas plant in 1893—or 1894, rather.

Q. And those are still working?

A. Yes.

Q. Then the basis of your testimony as to the 23415
indefinite life of a water gas set is that you have seen one work for 25 years; that is, since 1894?

A. That in connection with the condition of that apparatus at this time.

Q. But that is the only evidence you have?

A. Oh, I have seen a great many others that have operated for a number of years and are still in good condition, and I do not have to depend on one particular line of apparatus.

Q. The limit of time that you have seen one work is 25 years; isn't that correct?

A. That is the extreme limit, to the best of my present recollection.

Q. And it is good now?

A. It is as good now as when I put it in.

Q. That is the basis on which you state it will last indefinitely?

A. That in connection with my observation of others that have been in a number of years, though not possibly as long as those machines.

Q. The 42nd Street holder which you are to replace, could you replace that, as an operating man in a gas plant, such a holder as that?

A. Probably not.

23417 Q. Your theory does not go to the present utility of the instrumentalities there?

A. Not to that holder, no.

Q. Does it to any of them?

A. Any of the holders? Yes, I think all the holders are good.

Q. No, I mean any part of the plant.

A. Well, these are efficiently operating plants, and I have treated them as such and considered them as such.

Q. But you have not testified or you would not testify, that in rebuilding that holder you would have a holder that would be a good business proposition to

23418 operate?

A. I have not so testified.

Q. And your schedule here is not meant to show anything in regard to the utility of the different items when they are put in a condition as good as new?

A. I have testified as a whole it is an efficiently operating system, so necessarily that goes to the utility of the parts.

Q. Of all the parts?

A. Of the majority of them.

Q. What about the coal gas retorts or oil gas retorts at 99th Street; do you say it would be useful to operate those?

A. Under certain conditions, yes.

Q. Under what conditions?

A. Under the condition that they would not be able to enrich the gas to comply with the law without oil gas. It is conceivable that that might happen through a break down in the plants at other locations.

Q. Generally, then, you testify that when you put these things in repair they are good useful articles?

A. Generally, yes. I do not say that of every item.

Q. Not of every item?

A. I do not say so, no. But generally I should say so.

23420

Q. Will you specify which items you would not say that of?

A. No. As I said a while ago, I do not think I would replace that holder that we just referred to at 42nd Street. I do not think there would be occasion to rehabilitate these benches at 99th Street.

Q. You do not think so?

A. I do not think there would be occasion to do it.

Q. How long have they been out of commission, do you know?

A. No, I do not.

Q. What about the retorts at 14th Street and 42nd Street?

23421

A. I think that it would be advisable to rebuild those retorts.

Q. You would advise that?

A. I would think so, in view of the small reserve capacity of this system and the fact that the plant is there in existence.

Q. And the oil gas benches at 21st Street; did you take those up?

A. I could hardly pass on that at the moment from the information I have, but I think that if 14th Street is operated it would probably be necessary to operate

those benches. But I am not absolutely sure of that. I believe, though, if the 22-candle power standard is maintained it will be necessary to operate those in connection with Fourteenth Street, and it will probably be necessary to operate Fourteenth Street if there is a very sudden drop in temperature and if that extends through any period of time.

Q. Is it not possible to enrich the gas at 14th Street by mixing it with the other gas in the system?

A. I do not think there is capacity for enriching the entire output of that plant before it gets into the gen-

23423 eral system.

Q. Did they run those 21st Street oil gas benches in 1918, when they ran the 14th Street plant?

A. I don't know.

Q. You did not inquire as to that?

A. No, I did not.

Q. So you have not formed an opinion on this question?

A. Not very definite ones; only from my general knowledge of the situation. I have not gone into this in any particular detail.

Q. Could you tell from the appearance of those oil gas sets whether they have been used recently?

23424 A. Some of them have been used; I could not say how recently.

Q. You could not say how recently?

A. No.

Q. You could not say how long it has been since any repairs have been put on them?

A. No.

Q. Would you say that they have been neglected?

A. No.

Q. They have not been neglected?

A. No, I would not say so.

Q. You would not say that the oil gas retorts at 99th Street were neglected?

A. No, I don't know of any neglect that would hurt a retort when there is no fire in it.

Q. That is one of the articles that does not need any repairs at all?

A. I did not so testify.

Q. Well, it does not need any care, you say neglect won't hurt it?

A. I say when there is no fire in it, I don't think it needs any care.

Q. Mason work of that kind does not decay?

A. Not under cover, if water is kept from it, and it is kept under cover, it does not. 23426

Q. The brick work would not decay around it?

A. Not under cover if water is kept from it.

Mr. Clark: That is all.

Mr. Chambers: I would like to ask a few questions, just a few.

By Mr. Chambers:

Q. I understand the purport of your testimony to be that whatever loss these buildings may have suffered by use is readily seen, is that it?

A. Yes.

Q. And whatever loss these pieces of plant may have suffered by use may be readily seen?

A. Seen or felt or heard. 23427

Q. Yes, a visual examination of them will disclose any loss they have suffered?

A. I say seen or felt or heard.

Q. Now, whatever loss these buildings may have suffered because of length of time may be seen?

A. Yes.

Q. And whatever loss these pieces of plant may have suffered by length of time may be seen?

A. Seen or felt or heard.

Q. In other words, the only loss that any of the buildings or pieces of plant has suffered by use or length of time is what may be observed?

Mr. O'Brien: How about the other senses?

The Master: You have had your inning.

Q. Now, it is possible that some of them may have to be replaced because they are inadequate, isn't it?

A. What do you refer to?

Q. Any of these pieces of plant or machinery?

A. It is possible—no, wait a minute. Take the water gas apparatus, for instance. That is the biggest unit at the moment, that is, these 12 foot generators and 11 foot superheaters are the largest and most efficient units. I do not think it is probable that any of
23429 them will be replaced on account of inadequacy. Taking the 21st Street and 99th Street stations, they are the most modern type of design, and I do not think it is likely that anything will be replaced in those stations on account of inadequacy. The 14th Street and 42nd Street plant as a whole are reserve plants and are adequate for the purpose, and I do not think it is likely that any major pieces of machinery, or any building, will be replaced in any of these plants. The particular holder that I discussed was not very adequate, and I think that may be replaced. I do not think there is very much that is likely to be replaced on account of inadequacy in these plants.

23430 Q. You can only think of one holder?

A. That is all I can think of for the moment.

Q. Of all these holders, just one?

A. That is all I can think of for the moment.

Q. How about improvement in the art—have you ever heard of that?

Q. Everything they have may be wiped out by an improvement in the art?

Q. You concede that?

A. That is self-evident.

By the Master:

Q. Has there been any improvement in the art in the last ten years?

A. Almost none.

Q. In the last 20 years?

A. There have been some minor improvements, no great change.

Q. Is there any discussion now of improvements that experts are attempting to make, that anybody believes are possible, or that they conceive of or dream of now?

A. About the only thing under discussion which has 23432
been under discussion quite a little while, is the coke oven. That is coming into more or less use. That is about the only change in sight.

Q. How would that affect these plants?

A. If for instance there should be for some reason or other a great demand for coke, for hard coke, not the ordinary gas coke, but for hard coke, in the neighborhood of New York, that would make it to the interest of the company or to anybody else, make it to the financial interest to establish coke ovens, then they might be able to make gas enough cheaper to make it worth while to scrap these plants. That is hardly conceivable, because this big coke oven that was put over 23433
here on the meadows has not stopped the development of the Jersey companies

Q. They are advertising very extensively to push their coke sales?

A. They are making extraordinary efforts, because they have not been able to sell the coke, and it is piling up in great quantities in the neighborhood of Newark.

By Mr. Chambers:

Q. You say the 14th Street and 42nd Street plants are reserves?

A. Yes, sir.

Q. How long would it take to put them in operation?

A. About ten days, probably, or two weeks.

The Master: What has got to be done to put them in operation?

A. Get fires under the benches. You have to fire up your benches somewhat slowly.

The Master: I knew what it was, I wanted to get it on the record.

Q. Now, whatever is used, anything that is used, wears out, doesn't it, wears some?

23435 A. Not necessarily, no.

Q. You can think of some things can you that are used that do not wear? Will you name something?

A. Well, possibly that was going a little far. Some parts of everything used may wear out, probably do, same parts of them.

Q. Did you ever hear how rapidly the subway rails wear out on a curve? They last about 30 or 90 days, is it?

A. I don't know.

The Master: I think this record is perfectly clear that Mr. Miller's contention is that as these rails wear out, to illustrate, and they put new rails down, that the system is as good as it was when new. If you take a contact shoe on one of the cars, and it wears out and they put on a new one, that you have a car as it was when it was new, and so on. If you keep replacing parts as they wear out, you keep the thing as it was when new. I am perfectly frank to say that I will have a good deal of difficulty in going to the lengths that Colonel Miller asks me to go by his testimony. Taking the same illustration, the subway, here is a car running up and down day after day, assume that they put new wheels on it,

23436

and new shoes and new brakes, and paint it up, and do everything in the world to it, and that for all practical purposes it may be just as good as a new one, yet I cannot for the life of me conceive how it can be said that that car, even though as useful as a new one, is still as good as new.

Mr. Ransom: It could not be sold second-hand for as much as if it were new.

Mr. Chambers: No, there is more than that.

The Master: I think the record is clear as to just what the witness says.

Q. Suppose you take some pieces of plant where 23438
the manufacturer had gone out of business and you could not replace the parts, what then?

A. I could make them for them.

Q. You could make the parts?

A. Yes.

The Master: Why, sure, you can make anything. Because the manufacturer is out of business does not stop that.

Mr. Chambers: Try to get some of the parts for these automobiles.

The Master: You can have them made quick enough.

Mr. Chambers: Yes, at a great expense, so it 23439
would be better to scrap the automobiles.

The Master: That may be, but your question calls for a perfectly simple answer, if the manufacturer is out of business you can make the parts.

Q. Do you say that breaking by violence is a wearing out?

A. Breaking by violence?

Q. Yes, you don't consider that as wearing out?

A. No.

Q. Used with machinery, in the manner in which we are using it?

A. No, I would consider that abuse, not use.

Q. Suppose it breaks without anybody's fault?

A. You would just repair it.

Q. You would not call that wearing out?

A. No, I would call it breaking, and I would have it repaired. I have had that happen many times.

Q. Did you look over these holders to see if they were pitted?

A. Yes, sir.

Q. That is you went up and down the whole length of them? How did you do that, how did you observe all these holders?

23441 A. I went around the walk-arounds as far as they had them, and where they didn't have them I went around the tanks, and I climbed up the ladders and went over the roofs.

Q. You could not see the whole holder that way, could you?

A. You could see a large part of the holder, and if a large part is good there is no question that the balance is.

Q. If what you saw was all right you concluded the balance was all right?

A. I did. If fifty per cent of it was in good condition, it is perfectly good evidence that the balance is.

23442 Q. Did you see fifty per cent of each holder?

A. I think so.

Q. Did you notice whether any of them were pitted?

A. Yes.

Q. Were they, most of them?

Q. None are pitted except those I figured on repairing.

Q. The 63rd Street holder was not pitted?

A. No.

Q. And you looked that one over?

A. Yes.

Q. Did you include in your list of property mains and services?

A. No.

Q. Meters?

A. No.

Q. Office equipment?

A. No.

Q. Automobiles?

A. No.

Q. Then the hydraulic main at 99th Street was not included?

A. That was part of that oil bench. 23445

Q. Was there anything the matter with that? A. It needed to be leveled up.

Q. Aside from leveling up there wasn't anything the matter with it?

A. That is all that it needed, leveling up and painting.

Q. It was not rusty, was it?

A. Slightly so.

Q. Oh, it was?

A. Yes.

Q. And you think painting over that would remedy it?

A. No, I don't paint over rust. Removing the rust and painting. 23444

Q. Did you have that included, removing rust and painting?

A. Yes.

Q. Would you say that that had been neglected because it is rusted?

A. No, not that particular item.

Q. What information have you got superior to anybody else that the present prices are not likely to recede? Have you any?

A. I don't know that I have any information superior to anybody else?

Q. Have you any information superior to Mr. Gilbert, the Master, for instance, on that subject?

A. I probably have a great deal more than he has; I do not believe I have any superior.

Q. On what do you base that?

A. I base it on a study of the wage situation, the prices that we have to pay for material; on the fact that we have had to make a great many extensions which for months we put off thinking that prices would recede. In view of the continued increase in wages, in view of the reduced production of individuals, after consulting with everybody that we 23447 could find, reading all that was written, I have concluded that the prices will keep up, and I see no reasonable prospect of their receding.

Q. Did you find anybody—

A. I didn't find any employer of labor—

Q. Did you study the history of the Civil War, what happened after the Civil War?

A. I did.

Q. What did you find about that?

A. I found that after the Civil War there was a very considerable increase in wages. I found that prices reduced as machinery was introduced into plants 23448 to increase production. I found that wages increased, wages did not reduce, but prices of materials decreased on account of the tremendous increase in production due to machinery. Comparing that with the present situation, I cannot foresee how any increase in machinery can increase production to any point where it will materially reduce prices.

By the Master:

Q. Do you know what the condition of the Immigration Laws was in 1866, '67 and '68 and thereafter for a few years?

A. No.

Q. Did you have in mind the labor conditions in Europe?

A. I did not.

Q. Did you have in mind the tremendous number of people that came over here from Europe in competition with our labor?

A. I knew a great many came over, but labor prices were not materially reduced by that. The production was increased by machinery.

Q. Have you had in mind at all, the labor conditions in Europe today, and the possibility of that labor coming over to this market in competition with our 23450 labor?

A. Well, sir, I think that if that labor does come into competition here, at all, it will so denude Europe that there will be much trouble there, and I think there will be more trouble here.

Q. Do you think our Congress is going to let the foreign labor come in here just now, and for some time to come?

A. I haven't the slightest idea that they will.

The Master: Don't let us waste any time on these theoretical discussions. I can discuss it as well as Mr. Miller can.

Mr. O'Brien: I think it would be well to strike 23451 that from the record.

The Master: What?

Mr. O'Brien: That and also the soliloquy of Mr. Gawtry on that subject. I mean this work of prophecy, lifting the veil of the future. It is purely speculative, and surely it cannot be of any use in the courts.

The Master: It won't be necessary, after my decision, to prophesy as to the future.

Mr. O'Brien: You mean your Honor will take judicial notice of matters?

The Master: You will see what I will say when I am through with it.

Mr. O'Brien: Of course, our cross-examination depends a good deal upon whether or not the Master is going to consider this as purely speculative.

The Master: It is not purely speculative. I will say that now. There is a good deal of real foundation in the testimony of any witness that he does not believe, that it is his judgment and only his judgment, and his judgment is no better
23453 than any other judgment. He may get a different slant from the known facts. Mr. Miller has good basis for his opinions that prices won't recede for the next four or five years. Now, another man looking at it from another angle, taking the same known factors, may be justified in reaching a different conclusion, but he is justified in reaching that conclusion, and it will take a good deal of very substantial testimony and very intelligent argument to lead me to any other conclusion.

Mr. O'Brien: Well, you had the same idea when Gawtry testified.

23454 The Master: I am simply repeating what I said then.

Mr. O'Brien: You seemed to have it before anybody testified.

The Master: Yes.

Mr. Chambers: How about the drop in oil?

The Master: Yes. I have very definite and firm views on it.

Mr. Chambers: Does it not all depend somewhat on the cost of living?

The Master: I won't take any more on that. It depends on a lot of things.

Mr. Chambers: Exception.

The Master: In my own judgment, people are right who contend it is the high tax rate that keeps up the cost of living, which keeps up the cost of labor, which keeps up the cost of material. Now, I see by the public print a budget was introduced yesterday calling for five billion dollars for the next fiscal year, and that it is indicated that that will keep on during the present generation as one of the writers put it, and you cannot expect any drop in prices with a $5,000,000,000 tax bill. What is the use of talking about it? 23456

Mr. Chambers: Just as soon as we get an overproduction and people work—

The Master: Yes, just as long as you are counsel for defendants in this case, you can see the bright side of things.

Mr. Chambers: No, I do not; that is not correct.

The Master: Any other questions, Mr. Chambers?

Mr. Chambers: I will quote Judge Ransom on this question.

The Master: No, don't do that because he is a Public Service Commission graduate. I won't 23457 allow any questions on the problem of the high price of living and the high price of labor and the high price of material, because I believe it is all argumentative, pure opinion based upon factors that we all know, and from which we can draw our own inferences. I won't take any further questions on it. Have you anything else?

Mr. Chambers: No. You stopped further inquiry on this?

The Master: Yes. I mean anything else.

Mr. Chambers: Exception. Now, only those

questions you would not allow Mr. O'Brien to go into.

The Master: I won't permit any further cross-examination.

Mr. O'Brien: I would like to go into the basis of the witness's opinion, how far he has gone into the reports of industrial commissions of the several States, and the Federal Commission, how far he has gone—

The Master (interrupting): I don't care anything about it. I don't care whether he did or
23459 did not. I do not care what these bright statisticians and public officers write about these things.

Mr. O'Brien: What does your Honor care about newspaper comment?

The Master: No. Human knowledge, commonsense.

Mr. O'Brien: Well, it has got to be in this record to have any effect.

The Master: It is in the record. Col. Miller has given his opinion, Mr. Gawtry has given his.

Mr. O'Brien: I want to find out what the basis of the opinion is.

The Master: I say we have had enough of it
23460 and I won't permit any more.

Mr. O'Brien: He has let 20,000 men go out of his works, and they have got to find a market. That is one of the questions I want to ask him.

The Master: Are you going to let me talk to Mr. Chambers?

Mr. Chambers: I just want to ask another question. ¶

The Master: Yes. There are 400,000 miners who won't work, 250,000 or more loafers who ought to be on the farms who won't work. I know all about that.

By Mr. Chambers:

Q. You are testifying here under compensation from the Consolidated Gas Company, aren't you?

A. Yes.

Q. So much a day?

A. No.

Q. What is the arrangement?

A. I really do not know. I am putting in a bill for all the actual expenditures for my time, and when I get through I am going to see the officers of the company and see if we cannot figure on some profit.

The Master: Well, you expect to figure it per 23462
diem?

The Witness: No, sir.

The Master: For the time you spend?

The Witness: No, sir. I just expect to—

The Master: You have made your point that the witness is a paid expert.

The Witness: That is correct.

The Master: Witness excused.

Mr. O'Brien: Your Honor will permit me to note an exception to not allowing us to proceed with the examination of the witness into the basis—

The Master: As to the prophecy, as to the 23463
future.

Mr. O'Brien: As to the future.

The Master: Yes. I think Judge Cardozo in the Municipal gas cases covered that situation completely.

Mr. O'Brien: Oh, you are attracted by that little rhetoric of his. He didn't say anything new, your Honor.

The Master: I am attracted by anything Judge Cardozo writes.

RE-DIRECT EXAMINATION BY MR. RANSOM:

Q. Mr. Miller, the figures given in these exhibits, Defendants' AA27 to 31, both inclusive, notes which were called for by Mr. O'Brien, and which you stated were in your handwriting, prepared by you, are those figures correct, to your knowledge?

A. Yes.

Mr. Ransom: I offer in evidence these exhibits.

The Master: Not allowed. Mr. O'Brien did not cross-examine on them and did not use them.

Mr. Ransom: He asked certain questions about
23465 them.

The Master: No, he never looked at them and never examined them, never had the benefit of them, and I won't allow it.

Mr. Ransom: I would like to have marked for identification the schedule of supporting detail of which copies are furnished to the other defendants.

The Master: Yes.

Mr. O'Brien: I object to them.

The Master: Only for identification.

Marked Complainant's Exhibit 386 for identification.

23466

HERBERT W. ALDRICH, recalled as a witness for complainant:

DIRECT-EXAMINATION BY MR. RANSOM:

Q. Mr. Aldrich, in the course of your duties did you have frequent occasion to visit the plants and buildings of the Consolidated Gas Company during 1906 to 1917, inclusive?

Mr. O'Brien: I object to the witness being recalled at this time. I think that they have had their day with this witness, and I would like to have your Honor state—

23468

The Master: I want to find out what the purpose is.

Mr. Ransom: There are two particular matters which have got to be taken up; one is with respect to the properties which are in Exhibit 178, but which were not in use during portions of the time 1906 to 1917, and other properties which were in use during 1906 to 1917, but which were not in use in 1918, and consequently are not in Exhibit 178. In other words, the situation as to various of these parcels of real property with respect to taxes during 1906 to 1917.

The Master: I will take it.

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Mr. O'Brien: I want to say at this time that the reason I raised the objection was not to be rigid in the matter of the order of proof of counsel for the complainant but rather to call to your attention just what the jumbled way in which he has put his proof in in this case so far has meant to the defendants. We are in the dark as to the definite purposes of the witness and the way it has come along, one witness after another, another recalled and brought back again and so

on, and that is a matter that seems to indicate a very wide indulgence that he has taken in this case. If there has an omission been made, I do not press the objection to a man supplying an omission, but I mean if he sets us off on these various side tracks of investigation, all of these things mean the pressing of time.

The Master: Let me interrupt a minute. Can't you get through with this man with the tax map?

Mr. Ransom: No, sir, they are in connection with Mr. Aldrich's testimony.

23471 The Master: Can't you get rid of them?

Mr. Ransom: Yes, but they are only in connection with clearing up these two or three matters.

The Master: Then hurry it up.

Mr. Ransom: I will take up the tax matter first.

Q. Mr. Aldrich, have you read the testimony of the witness Quinn, Deputy Tax Commissioner with respect to the dimensions of Lot 1, Block 991 as shown on the Tax Map of the City of New York?

A. I have read it.

Q. Have you compared the description of that lot
23472 shown on the tax map with the description of the parcel designated by you by the same lot and block number on Exhibit 178?

A. I have.

Q. What, if any, differences exist?

Mr. Chambers: I take an objection upon the ground that it seems to me that this is contradicting his own witness Quinn, and it is more in the nature of rebuttal.

Mr. Ransom: We are going to have him explain that situation.

Mr. Chambers: You had it covered by Quinn.

and now you are going to contradict Quinn by Aldrich?

The Master: I will take it.

Mr. Chambers: Exception.

Q. Just state the differences?

A. The dimension given in Lot 1, Block 991 on the tax map along the northerly side of 14th Street is less than is given on sheet 3 of Exhibit 178; the dimension along the south side of 15th Street, pertaining to Lot 1, Block 991 is less on the tax map than it is on Sheet 3 of Exhibit 178.

Mr. Chambers: Now, that it appears— 23474

A. The dimension—

The Master: Yes, I will take the statement.

The Witness: The dimension along the easterly side of Lot 1, Block 991, that is along the westerly side of the so-called Tompkins Street is less on the tax map than it is given on sheet 3 of Exhibit 178.

Mr. Chambers: I move to strike that out. Where is there anything new about that?

The Master: I don't think there is, but let us see.

Mr. Chambers: Mr. Quinn already testified to that 23475

The Master: Let us get the next question.

Q. Which description comprises the greater area of land, yours or the tax map?

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial. That is the question for the Court to determine.

The Master: I would rather have Aldrich calculate it than do it myself. I don't know whether I can figure that. I suppose you take the height from 14th Street to 15th Street and half of the triangle, is that the idea?

The Witness: Take the sum of the two sides.

The Master: Yes, the sum of the two sides.

The Witness: Divide by 2 and multiply by 206 feet and 1/2.

Q. What is the answer?

A. The answer to that question is that the dimensions given by sheet 3 of Exhibit 178 gives the larger area of land.

Q. From what source did you get the dimensions shown on sheet 3 of Exhibit 178?

Mr. Chambers: I object to that as having al-
23477 ready been gone over once.

Mr. Ransom: Oh, no.

The Master: I know it has, but I do not see that it can do any harm. I will take it in this connection.

The Witness: From the judgment of the Supreme Court, dated June 12, 1917, which is Exhibit 179 in this case.

Q. Can you explain the reasons for the difference in those descriptions? If so, do so?

A. I can.

Q. What is it?

A. The tax map has not been altered to conform to
23478 the judgment of the Supreme Court.

Mr. Chambers: Wait a minute, can't you? I object to that as incompetent, irrelevant and immaterial.

Mr. O'Brien: I join in the objection.

Mr. Chambers: He has no qualification to state any such thing.

The Master: Yes, I will sustain that objection.

Mr. Chambers: I move to strike out what he did say in that regard.

The Master: Yes, that part of it is stricken out.

Mr. Ransom: He is qualified to state what the variance is.

The Master: He stated what the variance is, and I can draw my own conclusion that the reason why the tax map does not conform is that they have not sent the judgment in yet. Why haven't you sent that judgment in to have the apportionment man fix it up, or the tax map man?

The Witness: I do not understand that that 23480
was a thing that we should do, to go to the tax department and get them to alter the map.

The Master: That is what I always do, send my deed down to have the tax map fixed up.

Q. Mr. Aldrich, have you read the testimony of the witness Quinn with respect to the dimensions of Lots 1 and 27 of Block 979?

A. I have.

Q. Have you compared the dimensions of Lot 1, Block 979, as shown by you on Exhibit 178, with the dimensions of Lots 1 and 27 as shown on the tax maps?

A. I have. 23481

Q. Which map shows the greater area?

Mr. Chambers: I will make the same objection.

The Master: I will take that.

Mr. Chambers: Exception

A. Sheet 5 of Exhibit 178 gives the greater area.

Q. Referring to Lot 360 of Block 2583—

The Master: Where does that lead me now? You say sheet 5 shows the greater area; where does that lead me, how does that help us?

Mr. Ransom: The valuation testified to by Mr. Quinn is upon a smaller area.

The Master: And you are going to take that?

Mr. Ransom: We are willing to take it. Certainly the defendants have no right to complain.

Mr. Chambers: Why is there any need of rehashing this? That goes without saying, that he is bound by the testimony of his witness Quinn, surely.

The Master: Next question.

Mr. Ransom: I will have to wait on that until the afternoon.

23483 Q. Referring to Lot 37, Block 987, have you read the testimony of the witness Quinn as to the ownership by the city of a strip of land between the complainant company's property and the westerly side of Marginal Street?

A. I have read it.

Q. Are you personally familiar with the condemnation proceedings brought by the city to acquire the company's water front property at this point?

A. I am.

Q. From what source did you obtain the dimensions which you show for this block on Exhibit 178?

The Master: Sheet 1.

The Witness: Sheet 5.

23484 Mr. Chambers: I object to that, on the ground it has already been gone over.

Mr. Ransom: The Master has asked that Mr. Aldrich be recalled in that connection.

The Master: What is the answer?

A. I took the dimensions for that lot from the Commissioners' damage map in the condemnation proceeding.

Q. That is the city's damage map?

A. The city's damage map.

Q. Prepared at the time of the water front improvement?

A. It was.

Mr. Chambers: The city is not a party here in this action.

The Master: No. I have heard that before.

Mr. Chambers: He seeks to bind us by that.

Q. With respect to Lot 7 of Block 1107, have you read the comments found on pages 2651 and 2652 of the record concerning this property?

A. I have.

Q. I show you the tax map covering this property. Will you point out on the map where the boundaries of the lot are shown 23486

A. Referring to page 31 of the tax map there is indicated between the north side of 41st Street and the south side of 42nd Street a Lot 7, the northerly and southerly boundaries of such lot being indicated on the tax map by red arrows.

Q. Where does the tax map show the property of the city to terminate?

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial, and tends to confuse. The tax map is not in evidence.

Mr. Ransom: It is in evidence.

Mr. Chambers: This one?

Mr. Ransom: Yes, sir. 23487

Mr. O'Brien: Same objection.

Mr. Chambers: I did not know that. If that is so, that makes my objection all the more forcible, because the tax map speaks for itself.

The Master: I will take the witness's impression of it.

Mr. Chambers: I do not dispute that it is in evidence; it escaped my memory for the minute.

A. The tax map shows as belonging to the city a lot numbered 11, which terminated at the southerly side of 42nd Street, abutting Lot 7, the property of

the complainant. The tax map also shows a lot numbered 5, terminating at the north side of 41st Street, the termination being indicated as before by a red arrow, where it abuts Lot 7, the property of the complainant company.

Q. Does this Lot 7 as shown by you on Exhibit 178 have the same north and south dimensions as Lot 7, Block 1107, on the tax map?

A. It does.

Mr. Chambers: I do not understand that that is anything new. Mr. Quinn described all that,
23489 did he not?

Mr. Ransom: No.

The Master: Next question.

Q. Referring to Block 1712, Lot 2, have you read the testimony of the witness Levy respecting the dimensions of this lot as shown on the tax map?

A. I have.

Q. Referring to the statement of the witness Levy, beginning at page 5005, of the record, that the areas of land between the dock platform at 111th Street on the north and 110th Street on the south are shown by the tax map as belonging to the City of New York, will you point out to the Master on the tax map these
23490 areas as shown thereon?

Mr. Chambers: I object to that on the ground that Mr. Levy pointed it all out and testified to it.

The Master: I will have Mr. Aldrich point it out, too.

A. Page 30 of the volume of tax maps before me shows Lot 2 of Block 1712 by red arrows as extending from the north side of 110th Street to the south side of 111th Street, abutting on the south side of Lot 6, which is marked "City" and on the south side by the street marked "City," the arrows in each case extending the extent of Lot 2, north and south.

Q. What difference is there between your area and the dimenisons of this lot, as shown in Exhibit 178, and that shown on the tax map?

A. The tax map indicates Lot 2 as being of a larger area than sheet 13 of Exhibit 178.

Q. Referring to Block 1712, Lot 2—

Mr. Chambers: That is the one you have just been talking about.

Q. (Continuing.) Where did you get the dimensions that you show for that lot on Exhibit 178?

Mr. Chambers: I object to that as already having been gone over. 23492

The Master: I will take it.

Mr. Chambers: Exception.

A. From the deed of the Consolidated Gas Company here in evidence and the dock department's water front map at that point.

Q. The easterly boundary of the property being the exterior line of the City of New York?

A. So described in the deed. The easterly boundary of the property conveyed is there described as being the easterly line of the City of New York, and the dock department's water front maps at that point give the line which is on sheet 13 of Exhibit 178.

Q. Is that the dock line of 1890? 23493

Mr. O'Brien: I am going to move to strike out the last question and answer on the ground it is hearsay. He is speaking about what the dock department maps have shown. It may not be so immaterial in this case, but it is a sloppy way of putting in evidence.

Q. Is that the so-called line of 1890?

A. It is.

Mr. O'Brien: I note an exception to your Honor's ruling on the motion to strike out.

The Master: I did not hear any motion to strike out.

Mr. O'Brien: I move to strike out the last question and answer before this answer.

Mr. Ransom: We will have the one Bronx map here at two o'clock. Your Honor directed that we recall him or suggested that we recall Mr. Aldrich to clear up those two or three variances to which you directed attention. I recall you said specifically that I should recall Mr. Aldrich, to clear up what appear to be variances between the tax maps and Exhibit 178.

The Master: That is not the purpose. My
23495 purpose was to have Mr. Aldrich testify to what the dock department map showed.

Mr. Ransom: Oh, merely on that one point?

The Master: I am inclined to think that his answer to the question "Where did you get the dimensions which you put on your map? I got it from the dock department map" is all right. That I will permit to stand, but his voluntary statement, I think it was that the dock department map shows something, I will strike out.

Mr. Ransom: Your Honor will allow us an exception?

The Master: Yes.

23496 Mr. O'Brien: Then I move to strike out the next question and answer about the dock line of 1890. That is the dock line of 1890.

The Master: Yes, I will grant that motion, too.

Mr. Ransom: Exception. There are some other questions we have. There is one Bronx map, but there will be no more on these Manhattan maps. There is one Bronx map we will have by two o'clock, and then that property as of 1906 and 1917, underlying this matter of the real estate taxes for 1906 and 1917, which has

been gone into at the request of the defendants and not because we thought it had any bearing on the issues of this case.

The Master: How long will you be with Mr. Aldrich?

Mr. Ransom: I shall be fifteen minutes to half an hour, and not over. Half an hour at the outside.

The Master: Then you have some others?

Mr. Ransom: Then we have some others.

The Master: Who else do you have?

Mr. Ransom: Mr. Carter. 23498

The Master: How long will he be?

Mr. Ransom: Why, very brief. I do not believe that he will be long; he may be an hour on direct and I may have to put Mr. Woods on for a few questions.

Mr. Chambers: I did not hear that?

Mr. Ransom: I say I may have to put Mr. Woods on.

Recess.

Afternoon session.

23499

EMERSON McMILLIN, called as a witness on behalf of the complainant, being duly sworn, testified as follows:

DIRECT-EXAMINATION BY MR. RANSOM:

Q. Mr. McMillin, where do you reside?

A. Darlington, Ramsey, New Jersey.

Q. What is your business?

A. 120 Broadway.

Q. What is your business?

A. What is my business?

Q. Yes.

A. Well, banking and public utilities, dealing in securities, and farming.

Q. Are you connected with any companies or corporations engaged in the purchase, management and operation of public utilities, and if so, what?

A. Yes, I am the senior member of a banking firm that deals in securities, and chairman of the board of a holding company that operates plants.

Q. That is the banking firm of Emerson McMillin & Company, you are the senior member of?

23501 A. Yes.

Q. And you are chairman of the Board of the American Light and Traction Company?

A. Yes, sir.

Q. How long have you been in the business in New York City?

A. Since the middle of 1891 in New York City.

Q. And how long before that elsewhere?

A. Well, it is 52 years since I begun the management of companies.

Q. Have you had occasion in that capacity to become familiar with the management and operation of public utilities including gas companies?

23502 A. Fairly so.

Q. That has been your business?

A. That has been my business, yes.

Q. The utilities, principal kinds, owned by the American Light & Traction Company or other companies in which you are interested include gas and electric light and street railways?

A. Yes, sir.

Q. In what portions of the United States are gas works for the supply of gas to the public also controlled or operated by you?

A. In the States of New York, New Jersey, Michi-

gan, Ohio, Missouri, Wisconsin, Colorado, Texas, Providence of Quebec, Canada.

Q. State of Alabama—you have some properties in Alabama?

A. Yes.

Q. Have you personally bought and sold gas companies and gas properties?

A. Yes, sir.

Q. One or more in each of the states that you have mentioned during that time?

A. Yes, sir.

Q. Are you familiar with the returns expected and 23504
usually realized by investors in other classes of business than gas corporations and public utilities in New York City and its vicinity?

A. In other than public utilities?

Q. Yes.

A. Fairly so.

Q. That is, you deal in other kinds of stock personally?

A. Yes, sir.

Q. And your work for your banking firm brings you in contact with investments in other than public utility properties?

A. Yes, sir. 23505

Q. To what extent would you say that you do deal in other than public utility stocks personally, how much a year, what volume?

A. Usually I personally deal in three or four million dollars worth of securities a year. The firm—I cannot say very much more than that, but the percentage of the two, I don't know about that.

Q. Many of these stocks in which you deal are stocks where the dealings are conducted on the stock market?

A. Yes, sir.

Q. Dividend paying stocks?

A. No other kind.

Q. Based on current market quotations and upon prices paid by you from time to time for stocks in which you would deal, what would you say is the basis of return represented by prices paid for such stocks?

Mr. Chambers: I object to that as irrelevant, incompetent and immaterial and not the subject of expert testimony. That is a question which the Court has to determine in this case, it is a question of law which the courts have determined in other cases.

23507

The Master: I will overrule the objection at this time and entertain a motion to strike out at the close of the entire case.

Mr. Chambers: Exception.

A. What is the question?

Q. Based on current market quotations and on prices paid by you from time to time for these stocks in which you say you deal, what would you say was the basis of return represented by the prices paid for such stocks?

A. Other than public utilities?

Q. Yes.

23508

Mr. Chambers: I make the further objection that the question is too indefinite and too general and too uncertain, and does not relate to any particular property, or any particular stock, or any particular company, or any particular locality.

The Master: Objection overruled.

Mr. Chambers: Exception.

Q. Other than public utilities, what would you say?

A. In railroad securities the earnings of the companies—I have no means of knowing and pay no attention to those, but the dividends will average more than eight per cent. With the industrial companies,

23509

on the price which they are purchased on, about nine per cent.

Q. Are you familiar with the selling price of bonds and stocks generally of corporations furnishing illuminating or heating gas to the public?

A. In a general way, yes.

Q. Are you familiar with the rate of return expected and usually realized by investors in gas property?

A. The rate of return of course—

Mr. Chambers: That calls for yes or no I take it.

23510

Q. That is over and above operating expenses?

Mr. Chambers: Does that call for the rate?

Mr. Ransom: No.

Q. The question is are you familiar with it?

A. Yes.

Q. Are you familiar with the conditions of risk attending investments in operating gas utilities in this city and vicinity?

A. Yes.

Q. According to your own experience and the knowledge that you have acquired in the banking and public utility business, what is the rate of return usually expected and realized by investors in gas properties?

23511

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial. This is a subject that cannot be measured by the opinion of an individual of the experience of the witness.

The Master: You make the same objection, Mr. Chambers?

Mr. Chambers: I make all the objections I made before to the other question, including that it is indefinite and uncertain, and the other grounds.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Chambers: Exception. You will entertain a motion to strike out?

Mr. Ransom: I may say that that form of question is based on the Supreme Court ruling in a prior case.

Mr. O'Brien: While it may be competent for a duly qualified expert to tell the Court what during a given period has been the average rate of return, I do not think it is competent to give
23513 opinion testimony on this subject. It is a question as to locality. This state has fixed a fair rate of return, there is a legal rate of interest, and from that the Court will draw its conclusion. The ruling of the United States Supreme Court has not as yet been upset, and I say that in spite of the *obiter dictum* in the Lincoln gas case.

The Master: When did the State of New York fix a legal rate of six per cent?

Mr. O'Brien: It has always been, so far as my memory goes, the legal rate of interest, and anything more is usurious. In the Lincoln gas case they took cognizance of the fact that in the
23514 State of Nebraska the legal rate of interest was eight per cent. I say that if they drew a conclusion as to that in the State of Nebraska, we have the right as to this particular locality to base our own deductions upon what this state up to the present time has declared to be a legal return.

The Master: I will not hear any argument at this time; I will hear argument when the time comes for a motion to strike out.

Mr. O'Brien: My point is that this is not a subject for opinion testimony.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Expectations the last two or three years have not been realized.

The Master: Based upon the sales of that kind of securities, upon what basis are prices realized for securities?

Mr. O'Brien: Your Honor will permit me, with due deference, to object to your question, on the ground that the sale of securities is in no way a measure of the return upon a piece of property. 23516

The Master: It bears somewhat upon the expectation that Mr. McMillin says have not been realized.

Mr. O'Brien: Exception.

Q. What rate of return do you say the net earnings should represent in this locality?

A. There would be no occasion for any one to pay more than on a ten per cent basis. You can buy easy enough on those returns.

Q. What is that?

A. A ten per cent basis of earnings on the value of the property.

Q. Your opinion is that a figure of ten per cent 23517
in this locality—

A. That would be cheap judging from the returns on my own securities.

Q. Would it in your judgment be possible to interest investors in the acquisition or establishment of a public utility enterprise such as a gas company in the city or vicinity of New York upon a lesser expectation of earnings than eight per cent upon the value of the property?

Mr. O'Brien: I make the same objection, and I call your Honor's attention to the fact that

we are getting into the realm of Wall Street now, and it hasn't any place in this case.

The Master: Objection overruled.

Mr. O'Brien: If we are going to—

The Master: I have ruled on it, don't let us waste any argument at this time. I will take Mr. McMillin's testimony, and I am going to hear a motion to strike out when all the proof in this case is in. I am not concluding myself by allowing the testimony in, as to whether I will let it stay in or not.

23519 A. What is the question?

The Master: Could you interest people in investing in securities of a gas plant at less than eight per cent?

The Witness: In the establishment of a gas company you said?

Q. Acquisition or establishment.

A. In one established or in establishing one?

Q. In establishing one, or in buying one?

A. Well, in establishing one of course you have got to take everything into consideration. In one that is already established there are bonds, and first preferred, and possibly second preferred, and common, and they all have a different value, so that you could not answer one question in general.

23520

Q. But putting the question in the form in which I did with respect to the possibility of interesting investors in the acquiring or the establishing of a gas enterprise, is it your judgment that investors could be interested in furnishing the money for such a purpose on less than an eight per cent basis?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, based on assumptions that are not in this case, and that have no vital part in a rate case. On the further ground that it is leading.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. No.

The Master: You mean by that, Mr. McMillin, that you would not be able to interest capital in a gas enterprise unless the gas company could show a net earnings of eight per cent?

The Witness: Yes.

Q. On the value of the property?

A. On the value of the property.

The Master: That does not mean that they would insist on eight per cent on their bonds? 23522

The Witness: That does not follow.

The Master: Or on the first preferred stock.

The Witness: No.

The Master: Take a gas company in operation which showed that it was only earning on its invested capital actually in less than four per cent, could you sell the bonds of the company at all?

The Witness: No.

Mr. O'Brien: I object to the question of the Master, with due deference, on the ground that it is not the measure, that capitalization is not the measure of the value. 23523

The Master: I said invested capital, actually invested capital, the cost of its property.

Mr. O'Brien: My objection is just as valid whatever way your Honor puts it.

The Master: What I am trying to get at is this, Mr. McMillin, and I take it that that is the gist of your testimony here—what would a gas company have to earn to make its securities marketable at any price, having in mind that prices will vary as you have indicated between the bonds, and the first and second preferred, and the com-

mon stock, what would be the basis that it would have to earn to make its securities marketable?

Mr. O'Brien: I object to that.

Mr. Chambers: I object to that.

The Master: This is all taken subject to the objection and exception.

Mr. O'Brien: We are dealing with a false basis, your Honor.

The Master: Maybe we are. I am inclined to agree with Mr. Chambers that this is not a matter of expert testimony at all, but I am going
23525 to take it at this time subject to a motion to strike out.

The Witness: It would have to earn ten per cent to make the enterprise a go.

The Master: You would have to earn ten per cent to make the enterprise go?

The Witness: Yes.

Mr. O'Brien: You mean initiating an enterprise?

The Witness: The enterprise would have to show the possibility to earn ten per cent.

Mr. Ransom: I object to that.

Q. You mean to start?

23526 The Master: I won't take that.

The Witness: On the value of the property.

Mr. O'Brien: I will have to go over this ground later. You might as well settle it now.

The Master: I am going to do it myself now. Take a going concern that wanted to sell some bonds, and it only showed a return of four per cent, would it be able to sell its bonds?

Mr. O'Brien: Same objection.

The Witness: No.

The Master: Or five per cent?

The Witness: No.

By the Master:

Q. Well, what would it have to show investors who would be willing to buy first lien bonds that it could earn and was earning?

A. The percentage of bonds compared to the value of the property, of course—

Q. Would bear on it?

A. Yes.

Q. But the investors want to know that the interest is going to be paid on their bonds?

A. They must know that.

Q. What would they look at to see what the net 23528
return was, what the company's earnings were, what would the minimum be? What would your minimum be as a banker to underwrite the bonds?

Mr. O'Brien: I object to that.

The Witness: To underwrite the bonds?

Q. Yes.

A. That would depend. If it was an established company—

Q. I am talking about an established company?

A. The surplus that it had and the percentage of bonds to the stock. There are lots of things that must be taken into consideration. If you had a property in a large city with a good franchise and did not 23529
have out more than half its value in bonds, you could probably sell them on, at the present time, a six and one-half or seven per cent basis.

Q. Let us analyze that a minute. Let us assume a company that is offering half of the value of its property in a six per cent bond, and it has a surplus of a few million dollars, and the company shows that it is not making any money at all, but losing money, could you sell the bonds?

A. No.

Mr. O'Brien: Exception.

23530 Emerson McMillin, Direct.

Q. That there is a surplus, it is only half the value of the property?

A. You could not sell the bonds for half the property on that kind of a proposition.

Mr. O'Brien: Will your Honor permit me to note my objection to each one of your questions, and take an exception to your ruling?

The Master: Surely.

Q. Let us assume a company that has an amount of surplus, some surplus—in other words, that its capital is intact—and that it is offering bonds at one-
23531 half the value of its property, or the cost of its property, either way you like, and it is not showing any earnings, will you be able to sell the bonds?

A. If the stock is earning how much?

Q. Nothing?

A. Nothing?

Q. The company is earning nothing.

A. There wouldn't anybody want them.

Q. Well, at what return, what net return would you insist on before you would underwrite those bonds, in the case I have suggested?

Mr. O'Brien: Same objection. It is not clear whether you are addressing Mr. McMillin now
23532 as a banker or as a consumer.

The Master: I am addressing him as a banker, and a man who is dealing in securities and knows what he can buy and what he can sell, and he is not underwriting bonds unless he knows he can sell them.

Mr. O'Brien: Well, a further objection lies to the fact that your Honor does not make it clear whether you are talking now about a company about to be installed.

The Master: Oh, yes, I have made it perfectly clear.

23533

Mr. O'Brien: It is further vague, because you do not say whether the company has got a monopoly in a rich territory, or whether it is going into virgin fields.

The Master: I am going to take everything you want me to take, and I have taken some of them. I am going to take a monopoly, and I am going to take an established business, and I am going to take every possible advantage that you can have in a gas company that I am talking about, and I am going to take as low a percentage of its property as you care, and as fair 23534
a return as you like, will you be able to sell the bonds if the company is losing money on the sale of its gas?

The Witness: No.

Mr. O'Brien: I will take an exception.

Q. There is a point at which want to see some percentage of earnings by the company?

A. Exactly.

Q. What percentage, I would ask, assuming a monopoly and every other advantage?

A. Assuming that there is not more than half the value of the property in bonds, the stock ought to earn ten or twelve per cent as representing the other 23535
half.

Mr. O'Brien: Your Honor, I must assert to you just—

The Master: I must insist that I do not have any argument now. You will have your opportunity on a motion to strike out.

Mr. O'Brien: Well, will you wait a minute until I show you where you are veering away from the proper moorings?

The Master: No. Will you please stop? I am going to give you the opportunity on your motion to strike out.

Mr. O'Brien: I will stop if you tell me to stop, I must stop and note my exception.

The Master: I will give you the opportunity to move to strike it out.

Mr. O'Brien: What is the use of putting it on the record?

The Master: Because I want it.

Mr. O'Brien: The only way in which this gentleman could be called is to tell how much money is earned in New York in every line of endeavor.

The Master: Stop it. Next question. I am
23537 talking about a New York gas company with a monopoly.

The Witness: Yes, practical monopoly.

Q. With a practical monopoly, or a complete monopoly. Does it make any difference if you have a complete monopoly, if it is losing money on the sale of gas?

A. There would not anyone want your securities, of course.

By Mr. Ransom:

Q. Are you, Mr. McMillin, familiar with what has taken place recently with respect to the Brooklyn Union Gas Company's bonds?

23538 Mr. O'Brien: Same objection, your Honor. Now you are trying to prove one case by trying another.

The Master: I won't take that. There may be some special circumstance, there may be certain manipulation of bonds, or manipulation of stock. I will take his general statement.

Q. Mr. McMillin, has the cost of money for public utility purposes increased or decreased in the past few years?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial.

The Master: Same ruling.

Mr. O'Brien: What the bankers can do with money in making it high or low, expensive or cheap, hasn't any part in this rate case, your Honor.

The Master: Same ruling.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Mr. O'Brien: We have had the evidence of what they can do recently.

The Master: I have had that for many years.

Q. Would you say it has increased very largely? 23540

A. It has increased, yes, from year to year.

Mr. O'Brien: Same objection and exception.

Q. Do you have occasion to keep in close touch with the cost of operating gas properties owned by you and by the American Light & Traction Company in various parts of the country, including New York and vicinity?

Mr. O'Brien: Same objection.

The Master: Objection sustained. I do not think I will take that. Objection sustained.

Mr. Ransom: Well, you don't think you will take exactly what?

The Master: I won't take testimony as to what 23541 other gas plants in the country are doing.

Mr. Ransom: I am not going into that.

The Master: That is, whether it costs more to run gas plants somewhere else. I am dealing with one gas company here in one locality.

Q. Mr. McMillin, do you make it your business to keep in general touch with the trend of cost of operation and of the prices of the commodities which are used in operation?

Mr. O'Brien: Same objection. He has not been qualified here.

The Master: Objection sustained.

Mr. Ransom: Exception.

Q. Would you say, Mr. McMillin, that the unit cost of operating gas properties is greater or less at the present time than it was five years ago?

Mr. O'Brien: Same objection.

The Master: Same ruling.

Mr. Ransom: Exception.

The Master: You need not ask any more questions on that line. I won't let this witness testify.

23543 Mr. Ransom: I wish to show by this witness, in the first place, that there is at the present time a higher level of prices with respect to labor and materials used in the gas business and necessarily used and that for reasons which the witness will state, this condition represents a higher and a permanently higher level of prices, at least for a long period of time.

The Master: I won't take his testimony on that.

Mr. Ransom: I think he is one of the best qualified men in the country. If your Honor thinks that you have had enough on that score so that it becomes merely cumulative—

23544 The Master (interrupting): I won't take this witness's testimony.

Mr. Ransom: Your Honor will allow me an exception.

The Master: Yes.

Cross-examination by Mr. Chambers:

Q. Mr. McMillin, I understood you to say that in order to market bonds of a gas company in the City of New York, you were of the opinion that the net earnings on the stock ought to be ten or twelve per cent?

23545

A. To market them at some particular price?

Q. Well, do you think you could not market them if the stock earned net eight per cent?

A. Market the bonds?

Q. Yes.

A. A percentage of the value of the property, yes.

Q. That is a pretty good per cent, eight per cent?

A. Eight per cent?

Q. Net?

A. Net earnings?

Q. Yes.

A. Yes.

23546

Q. Now, supposing it was seven, do you think you would have any trouble in marketing them then?

A. I think you could not market them at all.

Q. At seven?

A. No, not now.

Q. Then between seven and eight you fix a line of demarkation, do you?

A. I think that if a stock was paying eight per cent dividend, you could market bonds, but usually when it pays eight per cent it is earning ten or twelve per cent, if it is a well-managed company.

The Master: I don't think Mr. Chambers understands the distinction between a stock getting the eight per cent and earning ten or twelve per cent.

23547

The Witness: It is a good deal different.

The Master: You better explain to him.

Q. Suppose it was earning eight per cent on the stock—

The Master: What do you mean now, earning it or getting it?

Mr. Chambers: Meaning that, just what I am saying, the net earnings.

The Master: Based on that, what do you fig-

ure the stockholder would get out of that eight per cent?

Mr. Chambers: Why, eight per cent on par.

The Master: No. I knew you did not understand it. A stock will earn a great deal more, it must earn a great deal more than it pays its stockholders. In other words—

Mr. Chambers (interrupting): I don't care what it pays. I did not reach that question yet. I am asking if he could sell these bonds if the stock was earning eight per cent. They may not
23549 pay anything. What difference does that make?

The Master: Have you got the question that Mr. Chambers now has in mind, earnings as distinguished—

Q. If a company was earning net eight per cent on its stock, could you then sell its bonds?

A. Its bonds would not be desirable, earning eight per cent, unless they were of a high price bond, someone might take them for the possible high rate of interest.

Q. Suppose it was earning ten and paying eight on the stock, then would you have any trouble?

A. In selling at what price, the bonds?

23550 Q. The bonds at par, say?

A. Well, at what rate of interest?

The Master: That don't interest Mr. Chambers.

Q. Say four or five per cent?

A. There would not anybody have them at all.

Q. Now they would not?

A. No.

Q. A few years ago they would?

A. Yes.

Q. They were very desirable?

A. Yes.

Q. Why is that situation prevailing now?
A. Because money is high.
Q. Money is high?
A. Yes.
Q. On account of the war, isn't it?
A. Money is high and—
Q. Isn't it on account of the war?
Mr. Ransom: Let him answer.
The Master: Let him answer.
The Witness: Money is high, and affairs are so uncertain. We don't know whether we are going to make the interest on these things next 23552 year or not.
Q. Times are normal, aren't they?
A. Now?
Q. Yes.
A. Normal?
Q. Abnormal?
A. Abnormal, absolutely, everywhere.
Q. Everywhere, everything, isn't that so?
A. Absolutely.
Q. In all your vast business it is abnormal?
A. Absolutely.
Q. Wages are abnormal, is that right?
A. Abnormal, yes. 23553
Q. Prices, moneys, everything is abnormal?
A. By comparison only.
Q. What?
A. By comparison, in comparison with pre-war periods.
Q. Have you ever in your experience known of such abnormal times as now?
A. Yes.
Q. When?
A. After the Civil War.

Q. How does the present check up with the Civil War times?

A. Well, my horizon of observation was smaller then than it is now. I can only make a fair comparison.

Q. How old were you then?

A. I was old enough to observe four years, three months in the Civil War.

Q. Conditions were abnormal then, weren't they?

A. Absolutely.

Q. But they leveled out to normal conditions after
23555 a little time, didn't they?

A. Yes, but now—

The Master: Well, were the low prices again abnormal when they got very low?

The Witness: When you get the low price, it was abnormal instead of the high prices being abnormal, and I fear, and I say I fear because it is pretty hard to tell people now that the abnormal may be the low prices after we have an abnormal condition heretofore, it would be a low price, that the abnormal condition of today compared with pre-war periods will be the normal basis for a long time.

23556 Q. Did you ever know money to be so high as it was loaning recently, on call at thirty per cent?

A. Oh, yes, I have seen it loan at seventy-five per cent.

Q. When, in 1875?

A. '75.

The Master: He said he saw it loan at seventy-five.

Q. When was that?

A. 1892 or 1893.

Q. 1892 or '93?

A. Yes.

Q. We had a panic?

A. Yes.

The Master: Why, call money went up to nearly that in 1907, didn't it, in the fall of 1907, in October?

The Witness: Yes. I do not think it went much over thirty per cent.

The Master: In October, 1907, it went pretty high, didn't it?

The Witness: It was pretty high, but I do not think—

Q. Not so high as that? 23558

A. More than thirty per cent, I should say.

Q. In 1907?

A. I should say so, yes, but I remember in 1893 it was loaning up to seventy-five per cent.

Q. Those were panicky times?

A. Absolutely.

The Master: Well, it is the high money that makes it panicky, isn't it?

The Witness: What is that?

The Master: It is the high cost of money that makes it panicky, isn't it?

The Witness: Panics make high call money. Whether they do—I don't know which way to 23559 put that.

Q. Would you say, Mr. McMillin, that the financial world was nervous just now because of the abnormal condition?

A. The abnormal conditions, that the world is nervous?

Q. Financial world?

A. I am afraid that most people are. I am not greatly troubled myself. We see these things occur every decade.

Q. Now, I want to ask you another question. If you were about to market some bonds upon a gas

company, established gas company, in the City of New York, and it appeared that that gas company earned ten per cent net on its stock, we will say, for the first question, covering a period of ten years, but during two of those ten years it fell as low as say, two per cent, but the average of the ten years was ten per cent, so that when you were all through it averaged ten per cent every year, the lean with the fat, would you then say that you could market those bonds?

A. I do not think you could market bonds under
23561 those conditions, if the last two years is to guide.

Q. Put the last two years then in the middle?

A. Oh, that would be a different thing, but the two years now would indicate conditions that might pertain for some time, and therefore nobody would want the bonds if the company was earning only two per cent.

Q. Even though the average was ten per cent?

A. Even though the average was twenty per cent.

Q. Even though the average was thirty per cent?

A. Yes.

Q. As high as thirty? Supposing the gas company made a net of thirty per cent?

23562 A. Yes.

The Master: In days gone by?

Mr. Chambers: So that the average was thirty per cent.

The Master: And the two years now—

Mr. Chambers: So that the average was thirty per cent, with the good years and bad, what do you say about that?

The Witness: Then it came down in the last two years to two per cent?

The Master: Yes.

The Witness: I would not want the bonds.

Q. Suppose it came down to four per cent in the last two years, during these abnormal times it made four, but the average was still ten, you could market those bonds, then, couldn't you?

A. Not easily.

Q. But you could market them, if they could make four per cent during these abnormal times, so that the average was ten, that would show they were in pretty good condition, wouldn't it?

A. Not in the last two years, if it came down to four per cent.

Q. You would not say so? 23564

A. These abnormal conditions are likely to obtain, in the eyes of bankers and people generally, for some time.

Q. How long?

A. That is a hard question to answer.

Q. There can't anybody answer it, can they?

A. There can't anybody answer it, but a good while.

The Master: By that you mean, Mr. McMillin, four or five years?

The Witness: Yes, I should say five years. We are paying every month or so higher wages.

Q. You are paying what?

A. Higher wages. Wages go up, up, up, ever 23565 since—

Q. Is not that because the cost of living is high?

A. The cost of what?

Q. Because the cost of living is high?

A. That is the basis of the claims, at any rate. We are paying it because we cannot help it.

Q. Suppose the cost of living goes down.

A. The cost of living will go down and the condition of the laboring man will be better. The price of labor will not go down appreciably for many years.

Q. That is your opinion?

A. That is my opinion and my desire.

Q. It is your desire?

A. And my desire, yes, sir.

Q. That it will not?

A. Yes.

Q. Well, your desire may not be realized?

A. That is right.

Q. It is a guess, is it not?

The Master: Why, of course it is a guess. Every prophecy is a guess.

A. Yes, it is all a guess.

Q. Is eight per cent a fair return, do you say?

23567 The Master: What do you mean by return?

Mr. Chambers: Wait a minute; I have not finished my question.

The Master: But do not let us get mixed up on those terms.

Q. Is eight per cent, net eight per cent on the stock of a company a fair return?

Mr. Ransom: I object to a question like that. You do not figure that in percentage on stock.

The Master: The question is not clear, in view of the witness's testimony that there is a good deal of difference between a stock earning eight per cent and a stock receiving eight per cent dividends. I want counsel to make it perfectly

23568 clear whether he is talking about the dividend payments or the stock earnings?

Mr. Chambers: I am talking about earnings all the while. They do not have to pay their stockholders, of course.

The Master: Mr. McMillin, is eight per cent as an earning on the stock a fair return to the company?

The Witness: Knowing that I can buy stock on the basis of twelve per cent dividends, not earnings, I would not want to pay for my stock at eight per cent.

Q. That is the best answer you can give me to that?

A. That is a practical one. I can go out and buy lots of stock at a twelve per cent dividend basis.

Q. So you would not care to invest in one earning eight per cent on its stock?

A. I would not care to invest in an eight per cent stock.

Q. Supposing a gas company were paying eight per cent on their stock right along through the present period, would you have any trouble in marketing those bonds? 23570

A. It might be paying eight per cent out of surplus.

Q. Would that be a good policy?

A. We know companies pile up surplus for just such occasions as this, and it continues to pay eight per cent although it was not earning it.

Q. Is it not fair to assume that all companies do pile up a surplus for abnormal conditions like this?

A. Yes, they ought to.

Q. They ought to?

A. Yes.

The Master: How long does surplus last if they do not have any earnings at all and pay the same rate of dividends? 23571

Mr. O'Brien: That has a pessimistic tone.

The Master: That surplus would not last very long, would it?

The Witness: It would not last very long.

The Master: Do not waste any more time on this. They are pure simple business propositions. The only point I was willing to take Mr. McMillin's testimony on—and in that he is more expert than any of us—is what the financial world figures a stock must earn to make its securities

salable; in other words, what a gas company must earn to make its securities salable. Mr. McMillin's testimony is that it should earn, not pay dividends, but should earn a net earning of ten to twelve per cent. That is your testimony, is it not?

The Witness: Yes.

Mr. O'Brien: That is Utopia you are in now, your Honor. He has not given the whole range of investment and investment securities. There are billions of dollars out now and they never
23573 had that to invite them in or to lure them in.

The Master: Maybe you can get it; I will give you a few minutes to see what you can do. Outside of that, Mr. Chambers, Mr. McMillin's testimony is intensely interesting and I am glad to hear it, but I do not think it adds anything to this case, because it is a matter that any intelligent man who follows the trend of events in the world and who has studied economic conditions at all can tell probably with as great certainty as Mr. McMillin, as to what the future will bring. Isn't that so—it is a pure guess?

The Witness: Oh, yes, it is a guess. Yes,
23574 sir.

Q. Do you own any stock in the Consolidated Gas Company?

A. No, sir.

Q. You are not interested in it in any way?

A. In no way at all.

Q. These corporations that you mentioned, the one in New Jersey, what corporation is that you are interested in?

A. Long Branch and along the coast down there.

Q. Long Branch?

A. Yes.

Q. How much are you earning over there on your stock?

The Master: I will not take that.

A. We are paying eight per cent dividends now.

The Master: I will not take that, Mr. McMillin, because that will not help us in this case. It might well be that all of Mr. McMillin's companies are making the same complaint that this company is making, or it may be that owing to a lack of restrictive legislation, or other things, they are making a great deal of money. It does not help us here at all. 23576

Q. Are you connected with the Public Service Gas Company of New Jersey?

A. I knew of it and knew officers of it.

Q. You have not any stock or bonds in it?

A. I have not any stock.

Q. You are not an officer of it?

A. No.

Q. Did you mean that you are a director of all these different companies in these different states?

A. How is that?

Q. You are a director of gas companies in all these different states?

A. I mentioned the states there where we have had companies, but we do not have them all now. We probably have fifteen or eighteen. 23577

Q. What do you do, you underwrite, do you?

A. What?

Q. You underwrite public utilities?

A. Not for a long time.

Q. Did you underwrite the Bronx Gas & Electric Company?

A. The Bronx?

Q. Yes.

A. No.

The Master: Is that all, Mr. Chambers?

Mr. Chambers: That is all.

The Master: Mr. O'Brien, do you want to ask him something?

Mr. O'Brien: Yes.

The Master: Have in mind, Mr. O'Brien, that the only point I am accepting Mr. McMillin's testimony on is his statement that a public utility having a practical monopoly, in order to market its securities, being a going concern, ought to show a net earning on its capital or investment
23579 —that is the actual cost of its plant—of from ten to twelve per cent. That is all that it amounts to.

Mr. Ransom: Of course, as to your limitation of the witness's testimony the complainant excepts. We say that concerning the matters to which he has testified and concerning the other matters to which he has not been permitted to testify, he is well qualified and—

The Master: I am not questioning Mr. McMillin's qualifications.

Mr. Ransom: Certainly as to the matters to which he has testified, his testimony is pertinent
23580 to the issues, highly probative, and we are entitled to the full benefit of it.

The Master: There are some points of his testimony that I shall accept his statement on, namely, the opinion of bankers as to the abnormality of the times; because that was brought out by Mr. Chambers and not by you. I am not going to let Mr. O'Brien cross-examine him on something that Mr. Chambers brought out. The point of my statement to Mr. O'Brien is that all I am going to let him inquire about is Mr. McMillin's statement that a company of the kind we are discussing ought to earn ten to twelve per cent.

Mr. Ransom: I wanted to show on the direct that they present level of prices, although abnormal compared with what went before the late war, is normal now and will be for a long period.

The Master: I did not let you show it and Mr. Chambers showed it himself. Why do you complain?

Mr. Ransom: I am not complaining.

Mr. O'Brien: I am going to complain before I start—

The Master: You always do.

Mr. O'Brien (continuing): To your Honor 23582
placing one of these big Hindenburg walls about what I am going to ask on cross-examination.

The Master: If you think a protest from you is going to get you through that wall, you are wrong; the wall is going to stay there.

Mr. O'Brien: When I proceed to cross-examine a witness—and it is not with Mr. McMillin alone, but with pretty nearly every witness I examine—you proceed to outline for me just how far you are going to let me go, before I tell you how far I wish to cross-examine him. That is what I am protesting against.

The Master: And I outline it this time and 23583
that outline goes and will stand.

Mr. O'Brien: Questions and answers are on this record, and I am going to assume that I have the right to cross-examine him on anything that bears upon what was brought out on the direct, irrespective of what is in your Honor's mind as a salient matter or a salient statement, and what is not.

The Master: If I am in the position where I can limit the cross and control it, I will enforce the rule that I have just stated, that your cross-

examination be directed to one point and no other. If you will not do that I will take the witness off the stand.

Mr. O'Brien: Your Honor can do as you see fit. I have no power to overrule you, you know. I am the attorney, you are the Judge.

The Master: No, it will have to be for the higher court to do that.

Mr. O'Brien: But still there is stuff put in here by Judge Ransom that you think does not impress you. It is in the record and Judge Ransom
23585 thinks it is impressive and he is going to impress the record with it, and I want to ask the witness about those same things.

The Master: Ask your questions. Your cross-examinatnon will be limited to what I have outlined.

Cross-examination by Mr. O'Brien:

Q. Mr. McMillin, have you any stock in any of the subsidiary companies of the Consolidated Gas Company?

A. I have not.

Q. Have you any stock in the Standard Oil Com-
23586 pany of New Jersey?

A. I have not.

Q. In the Standard Oil Company of New York?

A. No Standard Oil.

Q. Have you any relations in connection with any kinds of corporations with Mr. Nicholas F. Brady or Mr. William Rockefeller.

A. Well, I do not know whether I have stock in the same companies that they have, but I have no knowledge of being associated with them in any way. But I cannot know who the stockholders are of the various companies I have securities in.

Q. Will you say that you do not know that they have any connection with the companies in which you have stock?

A. I can say that I do not know that they have any connection with any company in which I have stock.

Q. Have you any stock in any oil companies?

A. One.

Q. One?

A. Yes, one.

Q. Which one is it?

A. Pierce Oil.

The Master: If the witness is willing to state it, all right. 23588

The Witness: I am sorry, but it is true.

The Master: What is the matter with Pierce Oil?

The Witness: It is going down.

The Master: So are others. I have some that is going down.

Q. The Standard Oil of New Jersey is not going down, is it Mr. McMillin?

The Master: Objection sustained. The question is not allowed.

A. I don't know.

Mr. O'Brien: Exception. 23589

The Master: Well, the witness has answered he don't know.

Q. Are you not acquainted with the returns that the Standard Oil of New Jersey and the Standard Oil of New York are getting upon their investment?

Mr. Ransom: Objected to.

The Master: Objection sustained, and I direct the counsel's attention to the fact that if he has any other questions to ask bearing upon the witness's interest in the litigation, his association or connection with the company or its subsidiaries, I will let him ask it; otherwise nothing but the question in the statement made by the witness.

Q. Have you had any business relations in the last decade and a half with Mr. Rockefeller?

A. There are three or four Rockefellers.

Q. William Rockefeller?

A. No.

Q. Or any of them. John D.?

A. I have had no business relations with any of them.

Q. Have you had any banking relations with them?

A. No.

Q. Or with companies in which they are interested?

23590 A. I have had correspondence with J. D., Jr., on industrial matters, particularly with his various schemes for bettering labor conditions, but that is the only connection I have had with any of the Rockefellers.

Q. Have you ever had any stock in either of the two Standard Oil Companies of New York or New Jersey?

A. Of the oil companies?

Q. Yes.

A. I do not think I ever had. But that is a pretty hard question, handling several hundred thousand shares a year, in fifteen, twenty or thirty years. It would be hard to remember, but I do not remember that I ever had any.

23591

Q. You mean you are buying and selling all the time and you might have taken over some stock?

A. I might have had it; but I would say no, that I never had any in any of those companies.

Q. When you testified today in the cross-examination concerning return that might entice a banker to put his money out, invest it in gas companies, were you testifying as a banker, as one who is loaning money and underwriting bonds in corporations?

A. I was testifying as one that was familiar both with the purchase and sale and the operation of the

properties and what they have done, and what they probably will do.

Q. Have you made a business of underwriting bonds in companies—gas companies?

A. Oh, not a business. No, not a business.

Q. Have you done it to any great extent?

A. No, I often have joined in it, though.

Q. In your day you have been a successful financier?

Mr. Ransom: I object to the question.

The Master: Mr. McMillin can admit it if he wants to. 23593

Mr. O'Brien: I am trying to get the man's point of view, and I know Mr. McMillin will give it to me frankly if we go along together for a while.

Mr. Ransom: I think the question is improper.

The Master: I will allow it.

A. I have no objection to answering the questions at all myself.

Q. Mr. McMillin, I am not going to get into your income tax return, but you have been a successful man?

A. I have had good health, three meals a day and three or four suits of clothes a year, and I have been able to help my neighbors. 23595

Q. And you have acquired some wealth?

A. Yes.

Q. You have gotten a big return on the moneys you have laid out?

The Master: I will sustain an objection to that.

Mr. O'Brien: I want to get the witness's point of view. If he is just giving us the opinion of bankers in Wall Street, that is not the part we want.

The Master: Well, do not let us waste any time.

Q. In the investments generally speaking into which you have put your money you have never been satisfied with six per cent, have you?

A. Never been satisfied with it?

Q. Yes.

A. I am always satisfied with the conditions as they exist. I have never troubled about anything at all.

Q. You are a philosopher?

A. Yes, sir, in that respect.

23597 Q. But where you put money out you have not put it in investments that show merely a return of six per cent?

A. No.

Q. You have looked for a more generous return than that, have you not?

A. Yes.

Q. You would want even ten years back a return of ten or fifteen per cent, would you not, putting any substantial amount of money in the business?

A. Not in operating on Wall Street.

Q. Talking now about a business concern.

A. The public utility business, yes.

Q. You would look for that much?

23598 A. Yes.

Q. You always have looked for that much?

A. Yes.

Q. From ten to fifteen per cent?

A. In Public Utilities.

Q. It would not interest you unless you did?

A. Not much.

Q. When you made your statement as to how much you would require as a banker underwriting bonds to be the showing of a return upon stock, you included

there as one of the elements the relation which the outstanding bonds bore to the stock, didn't you?

A. I think so, yes, sir.

Q. One of the conditions you laid down was that there should be not more bonds outstanding than one-half the stock?

A. In reply to certain questions, yes.

Q. And that was a condition precedent to your admitting that there was anything like a fair return?

A. Yes.

Q. And as I understood it, you said that if the bonds were not more than one-half the stock, the out- 23600
standing bonds, that you would underwrite further bonds if the stock showed a return of eight per cent. Is that correct?

A. I don't think I said that.

Q. Am I in error?

A. If the stock showed a return of eight per cent?

Q. Yes.

A. No, I didn't say so. I might underwrite the bonds at a price. The price comes in all the time.

Q. Is it not a fact that bonds are underwritten at various prices?

A. Yes.

Q. And they are underwritten on all kinds of con- 23601
cerns?

A. Yes, and various commissions, and all that sort of thing.

Q. And bonds are being underwritten every day, even during the past year?

A. Yes.

Q. In various concerns?

A. Yes.

Q. And they have been underwritten as to gas companies?

A. Yes.

Q. That is a fact?

A. Oh, yes.

Q. When you gave your answer a few minutes ago, did you have in mind just how many bonds, and the total aggregate amount outstanding of the Consolidated Gas Company there were?

A. I don't know anything about the bonds of the Consolidated Gas Company.

Q. That did not enter into it, the condition of the Consolidated Gas Company did not enter into your mind at all in making the answer to that question?

23603 A. No.

Q. Why did you exclude that from your view?

A. I didn't know anything about it, I thought of those things about which I knew.

Q. Did you have in mind particularly the companies you have been interested in?

A. The companies I am interested in now and have been, yes.

Q. Is it fair to assume that what you had in mind is that it would not interest you, Mr. Emerson McMillin, unless the utility showed a return under the condition that you have named?

A. As a utility. Now, don't get the impression that

23604 I am a Wall Street broker. I am anything in the world from that. I buy no stocks even on Wall Street, on the Stock Exchange, except for investment. I may sell them again in a month, but I do not do that kind of business. I have not made my money in Wall Street, I have made it from public utilities that I have operated.

Q. Well, you believe in the management of a public utility setting aside reserve, you have stated that, a surplus to take care of crises?

A. Yes.

Q. Rainy days?

A. Yes.

Q. Lean days?

A. Yes.

Q. A wise policy, isn't it?

A. I think so.

Q. That has been pursued by the companies in which you have been interested?

A. Yes.

Q. And the design is to bridge over the period when there may be great demands upon the utility?

A. You must have something above interest and above dividends. Any well managed company must set aside in some form or another, ordinarily surplus. 23606

Q. Wouldn't you say it would be a wise thing for any public utility to undertake, as does the National Government, to spread the heavy burdens of a particular period over a long term in the future?

A. Yes.

Q. Now, Mr. McMillin, when you were giving your testimony you had in mind other forms of investment into which people's money is put in and around New York?

A. Yes, but they don't have to sell, at any rate they will sell on a lower basis of earnings.

Q. Let me ask, Mr. McMillin, if you will give us approximately the amount of money during the last 23607 two years that was put into United States bonds. It ran up into something like twenty-five or thirty billions, didn't it?

A. I think so.

Q. And the return to the investors on those bonds is only three and a half to four and a half per cent, is that correct?

A. The return net to me was about 1.43 per cent.

Q. On the United States bonds?

A. When I paid taxes on them, yes.

Q. But there has been twenty-five to thirty billions invested in that form of security?

A. Yes.

Q. Do you know what the aggregate amount is that is invested in public utilities in the country at the present time?

A. Those statistics are frequently published, but they have not been fixed in my mind.

Q. That would not run above twenty-five billions, would it?

A. No, it would not run that high.

23609 Q. You are acquainted with the market for United States bonds, are you not?

The Master: What has that to do with this?

A. I have known to my sorrow—

The Master: What has that got to do with this?

Mr. O'Brien: I am sorry that your Honor does not see it. I hope before the end of the case that you will see it has some bearing.

The Master: I will not allow the question.

Mr. Ransom: The taxing power of the United States government—

The Master: No.

23610 Mr. O'Brien: Now, we will hear the superman testify.

Q. Have you followed, Mr. McMillin, the returns for the last three or four years upon real estate in and around New York City?

A. No.

Q. Are you acquainted with it at all?

A. Yes, I own some.

Q. Do you know, or is it the fact that for three years practically every piece of property sold under foreclosure was bought in by the mortgagee?

A. No.

The Master: I will not allow that. I don't see how it is useful at all.

Mr. OBrien: I assume that the witness was placed upon the stand here to show that the complainant company was entitled to as fair a return as the majority of lines of investment in and around New York?

The Master: I don't know anything about that; I know I am going to limit this cross-examination.

Mr. O'Brien: If that is not the point of the testimony then it should be stricken from the 23612
record.

The Master: I have told you what I understood the substance of his testimony is, and I will let you cross-examine on it. If there is no further question on it I will take the witness off the stand.

Q. Mr. McMillin, have you followed the bond market during the last year?

A. The bond market?

Q. Yes.

A. I have not had occasion to sell any in the last year.

Q. I mean have you kept yourself conversant with 23613
the bond market?

A. Oh, I look over the quotations from day to day; not otherwise.

Q. Just in a casual corsory way?

A. Yes.

Q. You have not bought or sold many bonds during that time?

A. I have a good many hundreds of thousands, perhaps millions, in government bonds, on which I lost four or five points.

Q. But outside of that, no?

A. I have probably sold no bonds.

Q. When you stated that a banker would not care to invest his money in so and so under such and such conditions, you were speaking about an ideal situation, were you not?

A. I had in mind the present condition; it is not ideal to me.

Q. What I mean, Mr. McMillin, is you were picking out what would be a choice investment to lure the banker in?

A. No, I could not say that, because I have said that ten per cent of earnings ought to sell the securi-
23615 ties.

Q. Well, you have looked down the bond market from day to day?

A. Yes.

Q. And you have seen thousands upon thousands of bonds sold and bought where the conditions were not anything near as alluring as those you have pointed out in the questions and answers put to you by Judge Ransom?

The Master: Where does that get us anywhere? You can buy and sell anything.

Mr. O'Brien: Your Honor, the witness has testified that you could not get money in. Now,
23616 he may mean that he would not put his own money in to a concern unless it showed—

The Master: You are talking of one thing and Mr. McMillin is talking of another. Of course, if you and I and other poor simpletons go in and buy securities, and when we find that the company is not earning enough to pay interest, we are going to sell, and then the shrewd men in the street go and buy them from us.

Mr. O'Brien: I am trying to get where Mr. McMillin stands.

The Master: He is talking about advising you or me, if we were his customers and came to his banking office, whether we ought to buy some bonds of the X Y Gas Co., which is not earning interest on its bonds.

Mr. O'Brien: No, I didn't take it that way. He has in mind putting in quite a considerable sum of his own money. Isn't that so, Mr. McMillin?

The Witness: Yes.

Q. You were not talking about O P M—other people's money—were you, when you gave your answer as to whether bankers would put their money in? 23618

A. I was speaking in general terms, general conditions as they exist today. I would not want to buy properties, and would not buy properties, public utility properties on a ten per cent basis today.

The Master: The banker, Mr. McMillin, the man who underwrites the bonds expects to sell them to the public, doesn't he?

The Witness: Yes.

The Master: He won't underwrite the bonds unless he knows the public will buy those bonds, isn't that so? 23619

The Witness: That is right.

The Master: So when you talk of what you would do, you have in mind whether you could sell those securities, isn't that so?

The Witness: Yes.

Q. Mr. McMillin, your statement as to what you would advise people to do was not predicated on what other people have done, say in the last decade? There have been thousands and millions of dollars worth of bonds sold?

A. Yes.

Q. And they have been sold in concerns that did not yield the return that you have spoken about?

A. Oh, we don't know when we see a bond sold on the Stock Exchange, we don't know what the company is doing at all. It may be earning 25 per cent on its stock.

Q. Well, it represents invested money when it is a sold bond, doesn't it?

A. Bonds are supposed to represent invested money.

Q. When you speak of a return of eight or ten or eleven per cent, or whatever you determined to be fair,
23621 a satisfactory return, did you have in mind upon the original cost of the property?

A. Upon the value of the property. It may be the original cost or otherwise, but upon the value of the property with not more than 50 per cent of its value in bonds, and the other in stock. Now, the bond holder has got what he conceived to be a sure thing. He is content with seven or eight or six per cent, but the stockholder does not know whether he is going to have a dividend or not, and therefore the returns must show big in order to induce him to make the purchase.

Q. Because of the uncertainties with which his in-
23622 vestment is surrounded?

A. Yes.

Q. And many men in putting in money do not go into the history of the company?

A. No.

Q. The amount of inflation there is, they don't go behind the return given to them by somebody who follows the tape, do they?

A. No.

Q. And the question of the history of the capitalization of the company would be a very important matter in connection with any investment that is under consideration?

A. There are many things that interefere or influence. For instance, we sold in one of our companies two years ago between two and a half and three millions of bonds. Now, the banking house that took those bonds and sold them, in their advertisements showed them on a basis of less than six per cent. There was no other company's bonds offered down that low. Now, in the first place that was a good company, and in the second place it was owned by the American Light & Traction Company, whose stocks have sold for many years above anything else in New York until last year. Now, the fact that 23624
they owned that company made it possible to sell those bonds down that low. The men who took them felt that they were taking no more risk than they would with a government bond.

Q. Because of the reputation of the company?

A. Yes, and the dividends it had been paying.

Q. Its prestige established through many years?

A. For many years its dividends were 50 per cent on par.

Q. Then that past history influenced the present buyers, didn't it?

A. It is paying 30 per cent on par, and 15 per cent on the purchase price now. 23625

Q. Are there many other companies that you belong to that have the same prestige and the same prosperity?

The Master: That is very interesting, Mr. McMillin, but we won't spend time to find out. I don't want an answer to that question.

Mr. O'Brien: We are gradually getting the viewpoint of the witness.

The Master: I think I have got his viewpoint.

Mr. O'Brien: If a man is making 50 per cent

on his money, there isn't any reason why he should not run away from a public utility that pays ten per cent.

The Witness: 50 per cent on par might be only ten per cent on what it cost. It was selling for 400, for many years.

Q. If you were going searchingly into the question, say in order to advise a lady client, you would want to know the history of a particular company, would you not?

The Master: The question will not be allowed.

23627 Q. How much the property originally cost?

The Master: The question is not allowed. How much do you say, Mr. O'Brien, a public utility corporation ought to earn, not pay its stockholders, but earn on the fair value of its property determined in the way in which you say it ought to be determined?

Mr. O'Brien: Your Honor, I can best answer that in a thoroughly hibernian way.

The Master: Well, give me the Irish of it.

Mr. O'Brien: When I say to you that public utilities should not expect any more than people in other lines of endeavor get—

23628 The Master: What do you say is the average?

Mr. O'Brien: I don't suppose, from my knowledge of real estate in New York City, in which millions and millions of dollars are invested, and which is the foundation stone of this municipality, because it bears practically all the expense of running it, that it has shown more than 3 per cent or 2 per cent on the average during the last two or three years.

The Master: What do you say the Consolidated Gas Company ought to earn on the actual cost or value of its plant?

Mr. Chambers: How is that material? The question is, what rate is confiscatory. Isn't that all immaterial?

The Master: Not on the question of this cross-examination.

Mr. Chambers: Oh, but I mean in the case. We are dealing with a confiscatory rate.

The Master: Counsel is challenging Mr. McMillin's statement that a public utility corporation ought to show earnings of 10 to 12 per cent. Now, the purpose of the cross-examination is to show that Mr. McMillin is wrong about it. Now, 23630
if you agree that it ought to be 10 per cent say so. What do you say it ought to be?

Mr. O'Brien: I get your point. What I want to bring out from the witness, if he is able to tell us is, what has been the average return shown by similar public utility companies throughout the country for the last three or four years.

The Master: I will not take that. I will let you ask Mr. McMillin what should have been the average throughout the country.

Mr. O'Brien: What does your Honor mean by that, what it should be? Of course a stockholder would say that it should be a whole lot 23631
of money, that he is entitled to everything he can get.

The Master: I don't think we need waste any more time on this. Mr. McMillin has given you his judgment, he has told you how he works it out. You don't get anywhere by asking him a lot of questions as to what may happen ten years from now.

Mr. O'Brien: Let me go on uninterruptedly for a few minutes and I will finish this.

Q. Now, Mr. McMillin, your statement as to

whether you would put money into a concern that did not show a certain percentage on the value of the property was a personal viewpoint that you gave, that meant that you would not put it in?

Mr. Ransom: Objected to as fully covered.

The Master: I will allow it once more.

Mr. Ransom: Exception.

A. Well, I would not put money in at those prices, because I can do so much better. Public utilities—this has not been brought out I believe—because of the hazardous character of the business must earn
23633 more to make them appeal to investors than other properties. The railroad securities that I own net me about eight and one quarter per cent. The industrials earn me nine per cent. The public utilities earn me a great deal more.

Q. In the ones in which you have invested?

A. Yes, and they ought to.

Q. And you have a choice collection?

A. Because they may become almost worthless. Prices everywhere have been fixed by franchise, and occasionally we find the public willing to correct them. But I think we have had only two or three, about three out of twelve or fifteen that have permitted
23634 us to increase the price above what we could do without their permission. In nearly all places we were already selling away below the ordinance when the war came on. We could go as far as the ordinance allowed us to go, and above that we could not. There are lots of companies that when they got up to the highest point they could go under their franchises still could not make it pay. In other words, if you get 10 or 15 per cent of a raise, and wages and material cost 100 per cent more, you cannot possibly make the two ends meet.

Q. Well, that has not been your experience in the companies in which you are interested?

A. Well, our companies originally had less investment. That is the secret of our success.

Q. They were what?

A. We bought them for less money

Q. You bought them cheap?

A. We bought them on a better basis.

The Master: I am not going into all this. The question is not allowed.

Mr. O'Brien: The witness has made a statement here as to returns that he is getting from 23636
certain lines of investment, and I think it should be brought out that that does not reflect the whole market by any means, is the wise selection and choice of a wise financier. Isn't that correct, Mr. McMillin?

The Master: The question is not allowed. I am going to stop this examination somewhere.

Mr. O'Brien: Exception.

Q. When you speak about this fair return that would attract investors, have you in mind the beginning of a new company in a new field?

A. Not especially so. It would apply in nearly the same degree to an established company. 23637

The Master: Your answer to my question included a company that had a monopoly and was an established business.

The Witness: Yes.

The Master: And you said it should be ten or twelve per cent?

The Witness: Yes.

Q. Well, you have always had this same view as to the return, the minimum return of about ten or twelve per cent? I mean to say you had that in the last decade or two, you have always had that view?

A. Yes, for many decades.

Q. Would you be influenced to hold a slightly different view where the monopoly is far reaching, as it is with the complainant company, in a great metropolis, with valuable franchises and the possibilities of no competition of any kind?

Mr. Ransom: I object to the question. There is no proof here of a monopoly. It is no more a monopoly than any other gas company.

The Master: I will allow it.

Mr. Ransom: Exception.

A. All these things influence the value of the stock.

23639 I only know about two companies in the United States that have an absolute monopoly.

Q. Which are they?

A. Waukegon, Wisconsin—

The Master: Assume for the purposes of the argument Mr. McMillin, that the Consolidated Gas Company has an absolute monopoly in the City of New York?

The Witness: Well, I built a company here in the city some years ago.

Q. What company was that?

A. East River, with the same franchise they have today.

23640 By the Master:

Q. What I am trying to get at, Mr. McMillin, so as to eliminate any question about it, I will assume, and would like to have you assume for the purposes of my question, that the Consolidated Gas Company owns all the stock of every other company on Manhattan Island. What would you say then? Would you say that the return ought to be less than ten or twelve per cent because of that?

A. With the present conditions, no, I would not modify that. In ordinary times that sort of condition would influence the price.

Q. How low would you go then?

A. Well, I might say nine or ten, instead of ten or twelve.

Q. Now, I have taken the most complete kind of a monopoly, and you say in normal times you might go as low as nine or ten, but at this time you say ten or twelve?

A. Yes.

The Master: Now, Mr. O'Brien, that is Mr. McMillin's view.

By Mr. O'Brien:

Q. Would you look for your return upon the cost 23642
of the plant, the amount of the original investment?

A. The cost of the plant to me if I was buying it, or its value to whoever operated it. Not watered stock or anything of that kind.

Q. You have in mind a reproduction value?

A. No, I didn't have in mind reproduction value, but you have got to put away something out of your earnings other than simply to pay dividends and interest.

The Master: Mr. O'Brien, I am going to limit the cross-examination. I don't think it is going to help us to ask any more questions.

Mr. O'Brien: I will be through very shortly, 23643
your Honor.

The Master: Well, you have got to be through shortly. I have limited the cross-examination now.

Q. Would you hold the same view were you asked the same questions as you have been asked this afternoon about a company in Chicago or San Francisco or Boston or Detroit?

A. All of those have their conditions that make every one different.

Q. You were giving us a composite—

The Master: Wait a minute. Mr. McMillin has not finished his answer.

A. (Continued.) In San Francisco I would not want to own them at any price. In Chicago, not a great deal better. In Boston, very good. Detroit is the best city in America.

The Master: I am going to stop the cross-examination. You can go, Mr. McMillin.

Mr. O'Brien: Your Honor, I have not finished.

The Master: I have finished. You can go, Mr. McMillin.

23645

Mr. O'Brien: I note an exception to your Honor's ruling.

The Master: It is too bad that I have to do that with every witness. I have absolutely got to cut the examination.

Mr. Chambers: May I move formally on the record to strike out Mr. McMillin's testimony upon the ground that it is immaterial and irrelevant; that the question here for decision is whether the company is or is not enjoying a return sufficiently large to say that the statute does not take away its property without due process of law.

23646

The Master: Motion denied.

Mr. Chambers: Exception. That is to say, that if the return had been say 6 per cent covering a period of years, that then the statute cannot be said to be confiscatory?

Mr. O'Brien: Your Honor, I join in the motion to strike out the testimony and note an exception to your Honor's ruling. I base it on the same grounds as Mr. Chambers, on the ground that is was entirely improper, and as not being directed to any line of testimony approved by the courts in rate cases.

HERBERT W. ALDRICH, RESUMED.

By Mr. Ransom:

Q. Referring to Block 2583, Lot 360, have you read the testimony of the witness Mulhall respecting the eastern boundary of that property?

A. I have.

Q. Have you compared the tax map of this property with the same property as shown by you on Exhibit 178?

A. I have.

Q. What if any differences in dimensions exist between the two maps? 23648

Mr. Chambers: I object to that on the ground it has been gone over.

The Master: I will allow that.

A. None.

Q. Referring to Mr. Mulhall's testimony at page 2379 that there is a parcel of land between the eastern boundary of this property and the bulkhead, is there such an intervening parcel?

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial.

The Master: The question is allowed.

A. There is no filled land easterly of and exterior to the property line of the complainant company? 23649

Q. What is the area shown on the tax map apparently lying east of the easterly line of the company's property?

A. That is the land under water lying between the exterior line of the grant to Gouveneur Morris and the bulkhead line.

Q. Between the physical bulkhead and the bulkhead line?

Mr. Chambers: I object to that is incompetent.

The Master: Objection overruled.

A. Answering the question, it is the unfilled area between the physical bulkhead and the theoretical bulkhead line.

Q. So that the area referred to as lying between this parcel and the bulkhead is land under water?

A. It is.

Q. Mr. Aldrich, from 1906 to 1917 did you frequently visit the plants and buildings of the complainant company?

A. I did, in all those years.

Q. Do you know what improvements there were
23651 upon the lands owned by the company during the period 1906 to 1917, inclusive?

A. I do.

Q. Do you know what use was made of the various parcels of land and improvements thereon during that period?

A. I do.

Q. Referring now to Complainant's Exhibit 178, and to Lots 19 and 20, and a portion of Lot 7 of Block 985, what improvements were located on those lots, and what use was made of the land and improvements between October 13, 1913, and December 31, 1917?

23652 A. There were no improvements upon 19 and 20, nor the adjacent city lot forming a part of Lot 7 other than the enclosing fences; but the property has been used by the complainant company since October 13, 1913, for the storage of large cast-iron pipe fittings.

Q. What department of the company?

A. Belonging to the departments of mains and services.

Q. Has that been used continually during the period you have mentioned?

A. It has.

Q. What use has been made of the property prior to October 13, 1913?

A. It had been leased for some years to the Curtis & Blaisdell Coal Company.

Q. As far back as 1905 and earlier?

A. Yes, shortly before 1906.

Q. Referring now to Block 1028, Lot 38, when was that property acquired by the complainant company? Was it July 30, 1916?

A. It was acquired by the complainant July 20, 1916.

Q. What if any buildings or improvements have 23654
been located on that parcel of land and what use has been made of the land and improvements from that date to December 31, 1917?

A. The complainant has erected upon the whole area a 3-story office building which has since been in use by the complainant as the headquarters of their Fourth Commercial District.

Q. Branch office?

A. Branch office.

Q. 3-story building?

A. 3-story building.

Q. Work was begun on it right after the land was acquired? 23655

A. Yes, sir, we proceeded at once.

Q. Directing your attention to Lots 50, 53, 54, 55 and 56, Block 1998, when was this property acquired by the complainant company?

Mr. Chambers: Hasn't that all been gone over?

Mr. Ransom: Not as to these years. It only comes up in connection with the desire of the defendants for information as to the years prior to 1918.

A. It was acquired by the complainant company December 31, 1914.

Q. What buildings and improvements, if any, have been located on that land, and what use has been made of the land and improvements by the complainant company from December 31, 1914, to December 31, 1917, and the present time?

A. When the complainant company acquired the property there was already erected upon it a brick and steel frame exhauster and governor house and adjacent brick and steel frame boiler house and brick smokestack and a coal storage bin and fences enclosing the storage yard. In the two buildings that
23657 I have described were steam engines, exhausters, a system of gas piping, and valves, steam boilers and the accessory equipment thereto.

Q. Since the time the property was acquired, has the governor house and exhauster house been extended?

A. Not since it was acquired by the company.

Q. When was that extension made?

A. I mean to say not since the land was acquired by the company. The extension to the building was made in 1912 by the complainant company.

Q. Have the land and improvements described been continuously used by the complainant company since
23658 December 31, 1914?

A. They have been.

Q. Directing your attention now to Block 2583, Lot 60, when was this property acquired for the complainant company?

A. I undersand you to be asking me about Lot 360?

Q. Yes, didn't I say 360?

A. It was acquired by the complainant company July 23, 1906

Q. What buildings and improvements, if any, have been erected on that land, and what use has been

made of the land and improvements by the complainant from that time to December 31, 1917, and the present time?

A. The improvements erected upon the property by the complainant company have been the enclosing fences, the bulkhead and dock at the easterly end, the one-story brick testing station. It has been used by the complainant company for the storage of large cast iron pipe in addition to the use of the testing station.

Q. Referring now to Lot 23 of Block 2108, when was this property acquired by the complainant com- 23660
pany?

A. It was acquired by the complainant company December 30, 1909.

Q. State what buildings and improvements, if any, have been placed on that land, and what use has been made of the land and improvements by the complainant company from the date of its acquisition to the end of December, 1917, and the present time?

A. The entire area is occupied by a four-story brick building which has been used by the company since the property was acquired as the meter shop and fittings shop for that commercial district.

Q. That is a branch meter and fittings shop for the 23661
company's Fifth District?

A. It is.

Q. And this four-story brick building was on the land when it was acquired by the complainant?

A. It was.

Q. And it was immediately reconstructed into a shop building?

A. It was.

Q. Has the property been so used by the complainant company from the date of this acquisition to the present time?

A. It has.

23662 Herbert W. Aldrich, Direct.

Q. Now, referring to Block 3236, Lot 1, when was this property acquired by the complainant company?

A. March 10, 1910.

Q. What buildings and improvements have been erected on this property, and what use of the land and improvements has been made by the complainant company from the date of its acquisition to December 31, 1917, and the present time?

A. There have been erected upon the property a brick and steel frame governor house and engine house and boiler house, and a ten million cubic feet
23663 gas storage holder, together with the equipment of piping and valves and accessory apparatus.

Q. The property has been used as a holder station since the erection of those structures?

A. It has been.

Q. When was the holder and governor house erected? When did you start the foundation work?

A. In 1910, immediately after the acquisition of the property.

Q. And completed it in 1912?

A. We did.

Q. With reference to Block 989, the easterly portion of Lot 1, when was that acquired by the com-
23664 plainant company?

A. On April 30, 1918.

Q. What buildings or improvements are on this property, and what use of the land and improvements has been made by the complainant company from the date of the acquisition of the property to December 31, 1917, and the present time?

A. When the complainant acquired the property there was already erected upon it a brick boiler house, a tall steel smokestack and a portion of a brick governor and exhauster house, together with the large gas piping, valves and accessory equipment pertaining thereto.

Q. That crosses the property from 15th to 16th Street?

A. There were in addition to the piping that I have described several large gas mains crossing the property in a northerly direction from 15th to 16th Streets.

Q. And this property has been in use as a portion of that plant since its acquisition?

A. It has been.

Q. With reference to Lots 49, 50 and 52 in Block 870, when was this property acquired by the complainant company?

A. June 5, June 19th, and July 2, 1912. 23666

Q. What buildings or improvements were placed upon this land upon acquisition, and what use of the land and improvements has been made by the complainant company from the dates of the acquisition of the lots to December 31, 1917, and the present time?

A. Those particular lots form a portion of the site of the nineteen-story office building of the complainant company. The erection of this building began immediately after—

The Master: We know all that.

Q. With reference to Block 870, Lot 47, when was that property acquired by the complainant company?

A. On June 20, 1913. 23667

Q. What buildings and improvements have been erected upon this land, and what use of the land and improvements has been made by the complainant company since that date?

A. There was erected upon it an extension of the general office building of the complainant company, and it has been in such use since the date the building was constructed.

Q. It is a two-story extension?

A. It is.

Q. Now, will you briefly describe the location of Lot 51, in Block 715?

23668 Herbert W. Aldrich, Direct.

A. Block 715 is the block between West 17th Street and West 18th Streets, Ninth and Tenth Avenues; Lot 51 in said block is on the south side of 18th Street, about midway between Ninth and Tenth Avenues, and is thirty-five feet wide and ninety-two feet deep.

Q. During what years, if any, was use made of this Lot 51, Block 715 by the complainant company?

A. It was in use from the 31st of December, 1906, to the first of January, 1914.

Q. What buildings and improvements were on that
23669 land during that period, and what use of the land and improvements was made by the complainant company?

A. Upon the rear of the lot was a two-story brick building extending the whole width of the lot, and toward the street there were two one-story frame buildings.

Q. Which were erected when?

A. In 1906, and the early part of 1907, and the group of three buildings were used by the complainant company collectively as a paint shop for the painting of its wagons and automobiles.

Q. Will you briefly describe Lot 26 in Block 989?

23670 A. Lot 26 in Block 989 is bounded on the south by East 15th Street—

Mr. Chambers: Hasn't that all been gone into?

Mr. Ransom: It has never been referred to before in this case?

The Master: It is not in this Exhibit 178. This is being offered to justify some tax adjustments, I imagine.

Mr. Ransom: Yes.

The Master: How much more have you got?

Mr. Ransom: Just three or four more parcels. We can finish.

The Master: Go ahead.

Mr. O'Brien: Of course, he has been recalled to bring in some new testimony.

Mr. Ransom: I have asked the question if he will briefly describe Lot 26 in Block 989, which the witness was doing when he was interrupted.

A. Block 989 is the block between East 15th and East 16th Streets, Avenues C and B. Lot 26 is the easterly 191 feet of that block.

Q. With reference to Lot 26, Block 989, during what period from and after December 31, 1905, was this property used by the complainant company? 23672

A. Up to January 31, 1907.

Q. What buildings and improvements were on the land throughout that period and what use of the land and improvements was made by the complainant company during that time?

A. The plot was occupied in part by the tar and ammonia recovery apparatus pertaining to the 14th Street coal gas plant of the complainant company, by a brick weigh office belonging to the complainant.

Q. Do you mean a scale house?

A. A scale house, a weigh office.

Q. One story?

A. One-story brick building. By a brick building 23673 containing the clay grinding, drying and sifting apparatus; by a two-story brick stable building and by three sheds used for the storage of wagons and the fire brick before it was ground up. The open yard was used for the storage of large castings, and also coal.

Q. When did its use by the complainant cease and what was the occasion?

A. Its use was terminated on January 31, 1907, by a condemnation proceeding, when the City of New York took the property for the extension of Willard Parker Hospital.

23674 Herbert W. Aldrich, Direct.

Q. Referring to Block 991, will you briefly describe Lots 26 and 50 therein?

A. Lot 50 of Block 991 is the bulkhead extending from 15th to 16th Streets, along the East River; Block 26 is the block between 15th and 16th Streets, Avenue D and the exterior street at that point, which is commonly called Tompkins Street.

Q. During what period after December 31, 1905, was this property used by the complainant company?

A. Up to January 31, 1907.

Q. During that period what buildings and improve-
23675 ments were on that land and what use of the land and improvements was made by the complainant company?

A. It was occupied in part by three brick storage buildings by a one-story brick weigh office down by the dock, which was provided with two outdoor wagon platform scales; it was enclosed by heavy timber retaining fences, and within was stored coal for use by the 14th Street coal gas plant, and along the southerly side of the block there were stored some large cast iron pipes.

Q. This was on Lot 26?

A. Yes, Lot 26.

Q. Lot 50 of this block, what was that?

23676 A. Lot 50 was the bulkhead at which the coal was unloaded for the 14th Street coal gas plant.

Q. This was from 15th to 16th Streets?

A. Correct.

Q. Why did this property cease to be used in 1907?

A. Because it was taken by the City of New York in a condemnation proceeding for the extension of the Willard Parker Hospital.

Q. Will you briefly describe Lots 40, 42, 43, 44, 45, 48, 49, 50, 51, 52 and 53 in Block 690?

A. Block 690 is the block between West 18th and West 19th Streets, extending from Tenth Avenue to

the new Marginal Street. The lots designated in the question are all of those on the south side of 19th Street except three which are not owned by the complainant company.

Q. During what period subsequent to December 31, 1905, was this property used by the complainant company?

A. Up to January 1, 1915.

Q. Up to what date, did you say?

A. January 1, 1914.

Q. What buildings and improvements were on the property during this period and what use of the land 23678
and improvements was made by the complainant company throughout that period?

A. The improvements consisted in the enclosing fences. Up to the date given the property was employed by the complainant company for the storage of lumber, pipe and building materials.

Q. Lumber used for shoring and the like?

A. It was.

Q. Bulky supplies?

A. Yes.

Q. What happened to the property at the end of 1913?

A. Its use by the complainant company for that pur- 23679
pose was discontinued.

Q. That is the use of the 18th Street station, to which it pertained having been discontinued the use of this property for storage purposes was at this time abandoned?

A. Correct.

Q. Will you briefly describe Lot 39 of Block 715?

A. You mean Lot 59?

Q. Yes, Lot 59.

A. Lot 59 of Block 715 is adjacent to the Lot 51 previously described. It is on the south side of West 18th Street, about 200 feet east of Tenth Avenue.

Q. Was this property used by the complainant company up to January 1, 1915, likewise?

A. It was used up to January 1, 1915.

Q. During that period what buildings and improvements were on the property and what use of the land and improvements was made by the complainant company?

A. It was occupied by a large brick building enclosing two gas storage holders, which were a portion of the 18th Street distributing station, and it was so used by the complainant company until January 1, 1915.

23681 Q. And then its use was discontinued?

A. It was.

Q. And it has not since been used?

A. It has not.

Q. Will you give the location of that portion of Lot 7 in Block 1,092 not printed in pink on Exhibit 178, Sheet 7; Lot 1 of the same block; Lot 1 in Block 1,093; that portion of Lot 9 of Block 1,093 shown not tinted in pink on Exhibit 178, and Lots 23 and 28 of Block 1,107?

The Master: Do that tomorrow morning at 9:30.

23682 Adjourned to Wednesday, December 3, 1919, at 9:30 A. M.

Last Complainant's Exhibit No. 386.

Last Defendants' Exhibit AA31.